

Appointment

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/16/2019 2:56:02 AM
To: Orlin, David [Orlin.David@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: SAFE - Holding Time for Discussion on Comments
Location: Ex. 6 Personal Privacy (PP)
Start: 9/17/2019 8:00:00 PM
End: 9/17/2019 9:00:00 PM
Show Time As: Tentative

From: Hageman, Sharon E. EOP/OMB
Sent: Sunday, September 15, 2019 10:37:35 PM (UTC-05:00) Eastern Time (US & Canada)
To: Hageman, Sharon E. EOP/OMB; Okoye, Winifred; Harlow, David; Srinivasan, Gautam; Schwab, Justin; Bolen, Brittany; Woods, Clint; Idsal, Anne; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: FW: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 4:00 PM-5:00 PM.
Where: Ex. 6 Personal Privacy (PP)

Please forward to appropriate OTAQ/OAP.

-----Original Appointment-----

From: Hageman, Sharon E. EOP/OMB Ex. 6 Personal Privacy (PP)
Sent: Friday, September 13, 2019 10:59 PM
To: Hageman, Sharon E. EOP/OMB; Srinivasan, Gautam; Harlow, David; Schwab, Justin; Bolen, Brittany; Woods, Clint; Idsal, Anne; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: FW: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Ex. 6 Personal Privacy (PP)

From: Hageman, Sharon E. EOP/OMB
Sent: Friday, September 13, 2019 11:37:03 PM UTC
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
Where: Ex. 6 Personal Privacy (PP)

Hello all,

Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.

Thanks,
Sharon

Appointment

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/17/2019 3:22:10 PM
To: Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]

Subject: Fwd: SAFE - Holding Time for Discussion on Comments

Location: Ex. 6 Personal Privacy (PP)

Start: 9/17/2019 5:00:00 PM

End: 9/17/2019 6:00:00 PM

Show Time As: Tentative

Recurrence: (none)

If you are interested and have time pls go ahead and join the discussion. Not sure I will be available so if get any documents let me know so I can get them into the docket. Thx

Begin forwarded message:

From: "Hageman, Sharon E. EOP/OMB" **Ex. 6 Personal Privacy (PP)**
To: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Miller, Wendy (ENRD)" <Wendy.Miller@usdoj.gov>, "justin.smith@usdoj.gov" <justin.smith@usdoj.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>, "Simon, Karl" <Simon.Karl@epa.gov>
Subject: SAFE - Holding Time for Discussion on Comments

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Message

Sent: 9/10/2019 8:37:40 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: FW: SAFE Preemption Waiver 8.30.2019 otaq edits
Attachments: SAFE Preemption Waiver 8.30.2019 ks edits.docx

Winnie

Can you call me or reply by email with how OGC has considered these comments on the waiver piece specifically? There were also perhaps some comments on the EOs at the end and on the waiver reconsideration authority.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, September 05, 2019 9:53 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: SAFE Preemption Waiver 8.30.2019 otaq edits

OGC,

Attached are our edits to the combined epca/waiver document. Not that we are still doing some internal review so one or two may change a bit, but I think this is in pretty good shape for you all to review and consider. I also recognize that we are a version or two behind since folks in your shop keep putting out new drafts so these comments may or may not line up exactly with the current working version. Let David or I know if you have any questions. thanks

Appointment

From: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)**
Sent: 9/16/2019 2:56:05 AM
To: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)**; Orlin, David [Orlin.David@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Harlow, David [harlow.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Woods, Clint [woods.clint@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]; Nickerson, William [Nickerson.William@epa.gov]; Miller, Wendy (ENRD) [Wendy.Miller@usdoj.gov]; justin.smith@usdoj.gov
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Subject: FW: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 4:00 PM-5:00 PM.
Where: **Ex. 6 Personal Privacy (PP)**

Please forward to appropriate OTAQ/OAP.

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To: Hageman, Sharon E. EOP/OMB; Srinivasan, Gautam; Harlow, David; Schwab, Justin; Bolen, Brittany; Woods, Clint; Idsal, Anne; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
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Sent: Friday, September 13, 2019 11:37:03 PM UTC
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
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When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
Where: **Ex. 6 Personal Privacy (PP)**

Hello all,

Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.

Thanks,

Sharon

Message

Sent: 8/30/2019 6:57:28 PM
To: Charmley, William [charmley.william@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]
Subject: Need Feedback on Technological Feasibility in CA Waiver Draft
Attachments: SAFE comparewno V2 8-29-19.docx

Bill and Mike –

Ex. 5 Attorney Client (AC)

Earlier this week I sent an email to Mike (and Sherwood) asking feedback on a few items related to CARB's MOU with 4 auto OEMs re GHG and ZEV – that is pasted in father below.

What I now seek feedback on – related to same questions I had for Mike regarding the MOU – is the discussion of technological feasibility (TF) in the attached draft pertaining to revoking the waiver for CARB's GHG and ZEV stds for MYs 2021-2025.

Specifically, see pages:

- 1.
- 2.
- 3.
- 4.

Ex. 5 Attorney Client (AC)

Anyway, Mike it makes sense for us to set up a phone call next Tues or Weds or after you've initially read through these pages so we can set expectations for feedback. If you don't mind I will send something for Tues afternoon.

David

.....
HI Mike –

Have you or anyone in ASD put together a summary or analysis of CARB's MOU?

Ex. 5 AC/DP

What do you make of the "simplify accounting" provision that removes the requirement to account for upstream emissions of these fuels? What does CARB currently do versus what does the federal system do?

The above two of my primary concerns, but if you have observations re the other provisions of the MOU I'd love to hear them.

For convenience, here is the link to the MOU:

<https://ww2.arb.ca.gov/sites/default/files/2019-07/Auto%20Terms%20Signed.pdf>

thanks – I could use this by the end of today if possible.

David

Appointment

From: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)**
Sent: 9/16/2019 2:56:05 AM
To: Hageman, Sharon E. EOP/OMB **Ex. 6 Personal Privacy (PP)** Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]; Nickerson, William [Nickerson.William@epa.gov]; Miller, Wendy (ENRD) [Wendy.Miller@usdoj.gov]; justin.smith@usdoj.gov
CC: Harlow, David [harlow.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: SAFE - Holding Time for Discussion on Comments
Location: **Ex. 6 Personal Privacy (PP)**
Start: 9/17/2019 5:00:00 PM
End: 9/17/2019 6:00:00 PM
Show Time As: Busy

If you are interested and have time pls go ahead and join the discussion. Not sure I will be available so if get any documents let me know so I can get them into the docket. Thx

Begin forwarded message:

From: "Hageman, Sharon E. EOP/OMB" <**Ex. 6 Personal Privacy (PP)**>
To: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Miller, Wendy (ENRD)" <Wendy.Miller@usdoj.gov>, "justin.smith@usdoj.gov" <justin.smith@usdoj.gov>
Cc: "Harlow, David" <harlow.david@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>, "Simon, Karl" <Simon.Karl@epa.gov>
Subject: SAFE - Holding Time for Discussion on Comments

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/16/2019 3:45:47 PM
To: Woods, Clint [woods.clint@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/16/2019 1:08:27 PM
To: Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw: SAFE - final tweaks tonight for integration
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx

Good morning gentlemen-

See the attached. There was a flurry of activity this weekend so please see page 102 for instance. As always, please pass along edits and comments.

Thank you.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 2:18:10 AM
To: Dickinson, David [Dickinson.David@epa.gov]; Charmley, William [charmley.william@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]; Cook, Leila [cook.leila@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

May be at pens down stage tomorrow so probably one last chance to edit if you want it

From: Orlin, David <Orlin.David@epa.gov>
Sent: Sunday, September 15, 2019 9:55 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

FYI—I am just getting back into town but it looks like another draft went to OIRA today?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 12:56 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE step one - clean and redline with bubbles

Attached is additional redline from the “clean” snapshot. Anyone who hasn’t reviewed yet should use this version rather than last night’s “clean.”

Morrison and I have been through the document and, once he inputs the redline that I’m attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>

Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>

Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 2/6/2019 4:03:58 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: Update regarding SAFE FRM interactions with DOT/NHTSA this week

Fyi, didn't see you on this one

From: Simon, Karl
Sent: Wednesday, February 06, 2019 9:23 AM
To: Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>
Subject: Re: Update regarding SAFE FRM interactions with DOT/NHTSA this week

I asked David D to sit in on the meeting. He knows where we left things re waiver issues so if there is any new direction would be useful to close the loop with him. From my perspective, i am not recommending any but I do believe OGC will make the push for OTAQ to be more involved in comment responses re waiver. Should listen today and we can take back and what is discussed.

On Feb 6, 2019, at 2:30 PM, Grundler, Christopher <grundler.christopher@epa.gov> wrote:

Got. I will give you a call before 10


Christopher Grundler, Director

Office of Transportation and Air Quality

U.S. Environmental Protection Agency

202.564.1682 (Washington DC)

734.214.4207 (Ann Arbor MI)

 (mobile)

www.epa.gov/otag

On Feb 6, 2019, at 8:00 AM, Charmley, William <charmley.william@epa.gov> wrote:

Chris,

I wanted to provide you with a status update on our interactions with the NHTSA/DOT team, doing back to December, and also what we understand is happening this week.

December 2018

- EPA had a meeting with NHTSA/DOT on
 - The one action item assigned to OTAQ was to send NHTSA a copy of the SAFE NPRM comment outline that the EPA contractor is using to create a databased of the comments. Mike did this on December 20.
 - We also received on December 20 a document from NHTSA, titled "Issue Outline for Analysis of Public Comments .."

January/February 2019

- Agenda for February 7 EPA/DOT meeting: Following our January 31 meeting with AA Wehrum, later that day Mike sent NHTSA a request for 2 agenda items for the February 7 EPA/DOT meeting:
 - NHTSA update on FRM timing
 - NHTSA feedback on what are the most significant technical issues for the FRM, and information regarding how NHTSA plans on addressing the issues
 - We have not yet heard from NHTSA on the overall agenda, or on our 2 suggested items
- Meeting today (Feb 6) regarding the SAFE NPRM Comments and Preparing for Final Rule
 - Justin Schwab and Jonathan Morrison (NHTSA General Counsel), have arranged a meeting for this afternoon to discuss the comments on the NPRM, and we believe organizational approaches to how to summarize and respond for the Final Rule
 - At some point yesterday, Justin decided that OAR and OTAQ should participate
 - The current list of invitees are:
 - Jonathan Morrison, NHTSA
 - Justin Schwab, David Orlin, Mark Kataoka, Gautam Srinivasan, EPA OGC
 - Clint Woods, David Harlow, EPA OAR
 - OTAQ

On this last topic, it would be helpful for me if you and I could talk this morning.

Thanks

Bill

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/18/2019 4:06:36 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Charmley, William [charmley.william@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Moran, Robin [moran.robin@epa.gov]
Subject: FW: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx; ATT00002.htm

I hesitate to say this is the last version because that was supposed to be last night's set of documents, but I do think this is the last one. Ex. 5 Deliberative Process (DP)

Ex. 6 Personal Privacy (PP) I believe you can now pull together the docket stuff per our discussion. Event/signature appears to be first thing tomorrow morning. Let me know if you have any questions. thanks

From: Woods, Clint <woods.clint@epa.gov>
Sent: Wednesday, September 18, 2019 11:42 AM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: Fwd: Revised SAFE Rule

Begin forwarded message:

From: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Date: September 18, 2019 at 11:36:37 AM EDT
To: "'Bolen, Brittany'" <bolen.brittany@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "schwab.justin@epa.gov" <schwab.justin@epa.gov>, "woods.clint@epa.gov" <woods.clint@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Subject: Revised SAFE Rule

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation

Ex. 6 Personal Privacy (PP)

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/17/2019 11:40:50 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

FYI and please see attached. This is now at OP (and with others, see below). Our understanding of next steps is set forth below. Thanks to all for their amazing individual work and teamwork on this.

From: Schwab, Justin
Sent: Tuesday, September 17, 2019 7:31 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Nickerson, William <Nickerson.William@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/17/2019 3:51:21 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
CC: Harlow, David [harlow.david@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: for DOJ SAFE call
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx; SAFE Part 1 Redline from 8.30 to 9.15 with redline for move.docx

Justin- Are these the documents you think DOJ will be working from on the call?

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 16, 2019 9:21 AM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: OIRA TRANSMISSION FW: Combined SAFE Rule Documents

See below & attached – the 3 versions that I circulated internally last night have now gone from DOT to OIRA.

From: Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Sent: Monday, September 16, 2019 9:07 AM
To: 'Theroux, Richard P.' <[REDACTED] Ex. 6 Personal Privacy (PP)>; Kymn, Christine J. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>; Hageman, Sharon E. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>; Oreska, Matthew P. EOP/OMB <[REDACTED] Ex. 6 Personal Privacy (PP)>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: Combined SAFE Rule Documents

Good morning,

We regret any confusion the prior versions from last week may have caused interagency reviewers. We had sent them as early as possible because we knew that there was interest in seeing the revised substantive discussions, but understand that led to questions about which discussion in which document was current.

We have attached several versions that we hope will make clear where the current document is. The primary intent of these documents is to show the changes to the current draft since the last document sent to OMB on August 30. There are two wrinkles here: first, the decision to move the EPCA section first makes a pure redline not very useful, as all you really see is the moved text, not actual changes to the text; and second, the agencies have made some changes to the combined document over the weekend.

To that end, we have attached 4 different versions, which we think will be helpful for reviewers with different levels of familiarity with the document:

- A purely "CLEAN" version of the latest draft

- A pure redline between the 8.30 draft and the latest 9.15 draft ("SAFE Part 1 Redline from 8.30 to 9.15 with redline for move"), that shows the reorganization and is thus filled with "green" text
- A modified redline ("REDLINED FROM 830") that accepts the move but shows all other changes (which we think is the best version of the document, though we note it was done manually, so may not be perfect)
- A redline ("REDLINE FROM COMBINED 912 913") that only shows changes between a version that combined the drafts sent Thursday and Friday with the 9.15 draft (which will show you all the extent of the changes over the weekend).

We are happy to answer any questions at 10 this morning.

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation
202-366-9038

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 8:49:47 PM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Correct – we all agreed to not move forward on including unless we heard there was a so-far unknown reason to consider doing so

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 4:19 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Regards,
 David D

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 4:10 PM
To: Dickinson, David <Dickinson.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

(leaving Clint off)

I thought the outcome of the 1:30 meeting was general agreement that we didn't think this was a good use of resources? Were you on that call, Winnie? I did leave before the entire discussion was done so maybe I missed something, but frankly this list just confirms that for me.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 2:52 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Just based on some recollection – not exhaustive research or verification

From: Okoye, Winifred <Okoye.Winifred@epa.gov>

Sent: Monday, September 16, 2019 2:09 PM

To: Woods, Clint <woods.clint@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Monday, September 16, 2019 11:45 AM

To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/16/2019 8:44:19 PM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 4:19 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Ex. 5 Attorney Client (AC)

Regards,
David D

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 4:10 PM
To: Dickinson, David <Dickinson.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

(leaving Clint off)

I thought the outcome of the 1:30 meeting was general agreement that we didn't think this was a good use of resources? Were you on that call, Winnie? I did leave before the entire discussion was done so maybe I missed something, but frankly this list just confirms that for me.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Monday, September 16, 2019 2:52 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE step one: draft for this afternoon's discussion at 1:30

Just based on some recollection – not exhaustive research or verification

From: Okoye, Winifred <Okoye.Winifred@epa.gov>

Sent: Monday, September 16, 2019 2:09 PM

To: Woods, Clint <woods.clint@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: Re: SAFE step one: draft for this afternoon's discussion at 1:30

David D- Perhaps you can add to this procedural history?:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Monday, September 16, 2019 11:45 AM

To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: SAFE step one: draft for this afternoon's discussion at 1:30

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If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 5:34:32 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, September 16, 2019 1:34 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE step one: draft for this afternoon's discussion at 1:30

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 16, 2019 11:46 AM
To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 5:11:22 PM
To: Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE - final tweaks tonight for integration

Begin forwarded message:

From: "Dickinson, David" <Dickinson.David@epa.gov>
Date: September 16, 2019 at 1:01:06 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

Karl –

Also, I think Lee Cook would be very interest in this development in terms of the public health and welfare angle.

David

From: Dickinson, David
Sent: Monday, September 16, 2019 1:00 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

Karl –

Ex. 5 Deliberative Process (DP)

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Monday, September 16, 2019 9:08 AM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE - final tweaks tonight for integration

Good morning gentlemen-

See the attached. There was a flurry of activity this weekend so please see page 102 for instance. As always, please pass along edits and comments.
Thank you.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/16/2019 4:37:42 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; ATT00001.htm

Sarah,

The waiver piece is very fluid as you will see from the email chain below. I am annoyed but ok with David and I joining the call at 1:30 but since we are way behind the conversations taking place we will be mostly in listening mode as it appears they may be changing the theory of the argument re: prong 2. Depending on how this is being presented we may or may not be able to provide assistance but I can't tell you that yet given the uncertainty in the process this last couple of days.

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 16, 2019 at 12:17:50 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30

David Orlin
 (202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 11:45:47 AM EDT
To: "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/13/2019 2:48:04 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw: Redline reflecting changes to NHTSA's piece
Attachments: 091219.docx

I think this is NHTSA's latest draft. Perhaps they have addressed your comments?

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, September 13, 2019 10:08 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Redline reflecting changes to NHTSA's piece

Please find attached. I have not yet reviewed. I have circulated to Brittany B. and OAR IO and asked whether someone, ideally neither Harlow nor ARLO, can merge this into the sharepoint version. If no one else is able to do so, then ARLO/I will have to do so. For now assume that it won't be us, I'll let you know if that changes.

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 9/13/2019 6:14:35 AM
To: Dickinson, David [Dickinson.David@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]
Subject: Re: OTAQ input to SAFE sharepoint on EPCA/CA Waiver

Thank you David D. We have reviewed and incorporated some of the edits. We would like to discuss others to get a better sense of what is being said. Attempts to reach you yesterday were unsuccessful. I will call you sometime today to discuss further. In the meantime, we would like OTAQ reaction on a couple of edits in the EPCA preemption section as well as section 177.

Again thank you for all your help here.

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Wednesday, September 11, 2019 11:52 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: OTAQ input to SAFE sharepoint on EPCA/CA Waiver

OGC colleagues –

I wanted to let you know that I was asked by Winnie to go ahead and insert the comments/edits in the EPCA preemption piece (NHTSA's piece) that Karl provided to you last week. That has been done. For your convenience, I've also tried to insert comments/edits on the CA waiver piece as well as the EOs at the end of the document – admittedly the document is evolving and there may have been a few spots where I couldn't find the place where our edit would have been made. All comments/edits are in redline.

Let me know if you have any questions and also when additional significant changes are being made.

Thank you,
David

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 12/4/2018 9:24:14 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: comments on SAFE rule
Attachments: Comments: Ford, NADA, UAW, others; Alliance, Global, Toyota, NGO comments; FW: Comments from CARB and ICCT; EDF Comments

From: Orlin, David
Sent: Thursday, November 01, 2018 11:37 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: comments on SAFE rule

Hi Winnie,

I think these are all the comments on the SAFE/LD GHG rule that have been sent to me. I was kind of hoping David D might dig through them to flag the CA waiver-specific pieces but guess not. I don't know what the process will be like for going final but I am hoping it will be more normal (i.e., more driven by OAR/OTAQ not OGC), but in any case you may want to start looking through the comments. I did see a trade press article yesterday suggesting that some industry commenters were not in favor of the waiver revocation but I might be misremembering (or it might not matter in any case).

Thanks,

David

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/6/2019 1:52:47 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]
Subject: SAFE Preemption Waiver 8.30.2019 otaq edits
Attachments: SAFE Preemption Waiver 8.30.2019 ks edits.docx

OGC,

Attached are our edits to the combined epca/waiver document. Not that we are still doing some internal review so one or two may change a bit, but I think this is in pretty good shape for you all to review and consider. I also recognize that we are a version or two behind since folks in your shop keep putting out new drafts so these comments may or may not line up exactly with the current working version. Let David or I know if you have any questions. thanks

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 8/31/2019 5:21:03 AM
To: Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw: SAFE CA waiver with EPCA section

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 8:40 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

They should send it as soon as possible and we will do our best to incorporate it into the process.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 7:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Just letting you know that OTAQ says they would "like to provide comment by Tuesday, morning if needed."

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 2:57:46 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please tell them that we need this as soon as possible. They should send whatever comments they may already have today.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 2:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good afternoon Justin,
this is a follow up to your question as to whether OAR intends to provide additional text. I did speak with David Dickinson, the staff person, and he indicated that they plan on providing additional text/edits and comments on the draft. He indicated it will most likely be next week.

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 8/30/2019 9:35:40 PM
To: Dickinson, David [Dickinson.David@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Charmley, William [charmley.william@epa.gov]
Subject: Re: Update of SAFE/CA Waiver

Thank you David.

On Aug 30, 2019, at 4:43 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Sounds good, I just sent Winnie comments on the SIP issues and indicated we'd have more comment on Tuesday.
 David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Friday, August 30, 2019 4:27 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Charmley, William <charmley.william@epa.gov>
Subject: Re: Update of SAFE/CA Waiver

Thanks David. I think sharing the sip observation and any incorrect cites that you flagged is ok to pass on. Given that none of us have read the current draft in any detail, it seems difficult to expect comments in such a short period. I think Tuesday morning for any additional comments that may come so that at least a few people can review the document. Give me a call if any other feedback or discussion is needed.

On Aug 30, 2019, at 4:08 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

All -

A few quick updates since our meeting this morning:

1.

Ex. 5 Attorney Client (AC)
2. The timing of a final waiver decision remains unclear, however Justin just indicated to Winnie that he'd like as much OTAQ feedback TODAY as possible. There is no indication whether that includes feedback on NHTSA's separate piece on EPCA preemption.
3.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Otherwise the request for feedback today can't be met given the holiday weekend, and we plan to provide feedback early next week. Is that ok?

Ex. 5 AC/DP

Ex. 5 AC/DP

As noted in #3 above, there are a few places in the draft re the relationship between ZEV/GHG and SIPs – see generally page 21 for a discussion of this, and pages 66-67 that references SIPs in the context of the new section 177 interpretation.

Again, the discussion of the 3rd waiver prong/technological feasibility may be deferred but you can find it in the draft at pages 53-65. The discussion of the CARB MOU is at pages 55 and 60-62.

Ex. 5 Deliberative Process (DP)

There remain placeholders for a possible EPCA preemption discussion in this waiver piece, and a placeholder for climate impacts (2nd waiver prong) in California and possibly why the impacts are not “compelling and extraordinary.”

And a good weekend to all,
David

<SAFE comparewno V2 8-29-19.docx>

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/4/2019 5:55:24 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: Materials for the Light-duty GHG SAFE rulemaking bi-weekly with AA Idsal scheduled for September 4
Attachments: Agenda_LD GHG BiWeekly with AA Idsal_Sept 4 2019.docx

From: Charmley, William <charmley.william@epa.gov>
Sent: Tuesday, September 3, 2019 4:23 PM
To: OAR Briefings <OAR_Briefings@epa.gov>
Cc: OTAQ Materials <OTAQMaterials@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: Materials for the Light-duty GHG SAFE rulemaking bi-weekly with AA Idsal scheduled for September 4

Attached is the material we will use for our Wednesday, September 4 meeting with AA Idsal on the light-duty vehicle GHG SAFE rule.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/3/2019 10:59:58 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx; ATT00001.htm

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 3, 2019 at 5:47:21 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: FW: SAFE

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 03, 2019 12:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/3/2019 11:28:17 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Re: SAFE CA waiver with EPCA section

Thanks Winnie. I had not heard that legal advice given so directly. Last I had been in a discussion with them, it seemed like there was a policy choice to be made here as well.

On Aug 31, 2019, at 1:32 AM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Good morning David D-

Ex. 5 Attorney Work Product (AWP)

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Friday, August 30, 2019 4:43:11 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Winnie –

OTAQ would like to be able to fully read the document/most recent draft you provided yesterday and provide comment to you Tuesday, morning if needed.

Ex. 5 Attorney Work Product (AWP)

Ex. 5 Attorney Work Product (AWP)

Thank you, and more soon. I know there are some basic citation issues but don't have all of them handy,

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 3:35 PM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE CA waiver with EPCA section

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 2:57 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please tell them that we need this as soon as possible. They should send whatever comments they may already have today.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 2:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good afternoon Justin,

this is a follow up to your question as to whether OAR intends to provide additional text. I did speak with David Dickinson, the staff person, and he indicated that they plan on providing additional text/edits and comments on the draft. He indicated it will most likely be next week.

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 8/31/2019 5:43:51 AM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fw:
Attachments: Waiver piece 08302019.docx

Importance: High

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 11:14 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject:

Please find attached. As circulated to our co-authors and with Matt and OAR IO.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 8/6/2019 9:23:56 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: SAFE waiver module for upload
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx; ATT00001.htm

FYI

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Tuesday, August 6, 2019 5:22 PM
To: Charmley, William <charmley.william@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Cc: Cook, Leila <cook.leila@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: Fwd: SAFE waiver module for upload

FYI in case you don't already have this was what was uploaded last Friday from EPA.

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: August 2, 2019 at 2:10:02 PM EDT
To: "Nickerson, William" <Nickerson.William@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>
Cc: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>
Subject: SAFE waiver module for upload

Bill,

Please find attached.

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 8/6/2019 7:09:21 PM
To: Dickinson, David [Dickinson.David@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: Crosswalk for ACC waiver withdrawal
Attachments: ACCprogramwithdrawalNPRMFRN.docx

Our FO has requested a checklist or crosswalk of each item we proposed/took comment on in the proposal and how it is addressed in the final. The attached is a draft and because drafting responsibilities for 209(b)(1)(B) reside with OAR, could you please complete #4a-c?

Thank you.

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 8/15/2019 8:24:40 PM
To: Burch, Julia [Burch.Julia@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Sargeant, Kathryn [sargeant.kathryn@epa.gov]
Subject: RE: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019
Attachments: AX-19-000-7364_incoming_EDF to Administrator re failure to record meetings.pdf

I think they should capture this one from EDF to Administrator claiming that EPA failed to record meetings w automakers

From: Burch, Julia <Burch.Julia@epa.gov>
Sent: Thursday, August 15, 2019 4:14 PM
To: Moran, Robin <moran.robin@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Sargeant, Kathryn <sargeant.kathryn@epa.gov>
Subject: FW: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019

This is the second piece that the Administrator requested, that OCIR took the lead on. Please take a quick look and let me know if anything looks out of place.

Thanks!

From: Cyran, Carissa <Cyran.Carissa@epa.gov>
Sent: Thursday, August 15, 2019 3:54 PM
To: Burch, Julia <Burch.Julia@epa.gov>
Subject: FACT SHEET Timeline Draft OCIR Input for SAFE Letter/Statement June 20-August 15 2019

Hi Julia,

Attached are letters and a summary document that OCIR pulled together in response to the Administrator's request for a chronological list and summary of all the SAFE-related correspondence since the Wehrum hearing. If staff have any edits or see any major issues, let me know and I will work with OCIR to address them. If none, once I have the new fact sheet from you all I will batch it together for OAR IO review.

Thank you!

Carissa

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 8/2/2019 6:23:48 PM
To: Cook, Leila [cook.leila@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: SAFE waiver module as sent to OP
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx

I am inferring "as sent to OP" means they plan to upload it to OIRA?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 02, 2019 2:11 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: SAFE waiver module as sent to OP

Please find attached. Thank you for all your work on this.

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 8/1/2019 10:15:02 PM
To: Cook, Leila [cook.leila@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: CA waiver writeup
Attachments: ACCwithdrawal 8-1 (authority+criteria).docx

FYI (also note I changed some minor things with the page headers/spacing on the attached version).

While I was writing this email Justin called to check on status and I took the opportunity to make the pitch not to send this to OIRA and he said he will try to pass that on but it will not be up to him—possibly will be up to Anne but not really clear (suggestion was if someone wants to see tangible proof the rule is being written then this may have to be offered up).

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Thursday, August 01, 2019 6:08 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Justin,

Attached is a version containing both what I already sent you and OTAQ's writeup on prong 2 of the waiver criteria (the first 15 pages should be identical to what you have, except for the added heading on p.1).

I have not looked at their draft, except for purpose of splicing the two documents together in a way that seemed reasonable. OTAQ asked me to emphasize that this is a first draft, and one with very limited management review—they are hoping to engage with Sarah and Anne shortly and their hope is that this version would be not be sent out for interagency review before they have a chance to have more management engagement (and maybe more time to polish it).

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Thursday, August 01, 2019 4:17 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Re: CA waiver writeup

Thank you. I look forward to reviewing this and the next version.

Please advise me of the availability of each team member tomorrow in case we have follow up questions or need additional drafting/revision.

Sent from my iPhone

On Aug 1, 2019, at 3:45 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Justin,

Ex. 5 AC/DP

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<ACCwithdrawal authority 8-1.docx>

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 8/1/2019 9:49:09 PM
To: Simon, Karl [Simon.Karl@epa.gov]
CC: Cook, Leila [cook.leila@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: CA waiver writeup
Attachments: ACCwithdrawal 8-1 (authority+criteria).docx

Thanks very much. I went ahead and spliced the two documents together in the attached which I will send to Justin now (I moved the finding to the end, except for the last sentence about preemption which I dropped, and picked up with your paragraph C, since paragraph B seemed a lot like what we had written and paragraph A seemed redundant—hope those changes are ok).

I can tell Justin this is very preliminary but I think you know the whole point of this exercise was to show NHTSA something, and possibly to show the White House something, so I can't make any promises about whether or not it will go outside the agency. I thought that was well understood?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, August 01, 2019 5:32 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Cook, Leila <cook.leila@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Re: CA waiver writeup

One more thing. I think it goes without saying but this document should not go outside the agency. Thanks

On Aug 1, 2019, at 3:58 PM, Orlin, David <Orlin.David@epa.gov> wrote:

fyi

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Thursday, August 01, 2019 3:46 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: CA waiver writeup

Justin,

Ex. 5 AC/DP

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<ACCwithdrawal authority 8-1.docx>

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 8/1/2019 9:13:29 PM
To: Orlin, David [Orlin.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: CA waiver writeup
Attachments: 2ndwaiver prong OTAQ 8-01-19v2.docx

Thanks David. Here is our first draft of the discussion on the second prong. We are interested in your comments on it, recognizing that there are probably some holes to fill as well given the short drafting time. We have not run this through anyone outside of the three of us, so we will find some time with Sarah and Anne when they are back in the office to engage with them. Thus, there could be some additional modifications coming from us. In the interim, we will also take a look at the draft you sent along. We can talk next week.

Karl

From: Orlin, David
Sent: Thursday, August 1, 2019 3:59 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: CA waiver writeup

fyi

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Thursday, August 01, 2019 3:46 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: CA waiver writeup

Justin,

Attached is a first cut writeup on the overall authority issues related to the California waiver revocation (i.e., do we have authority to revoke in light of the statute, legislative history, the 1977 amendments, the time that has passed and alleged reliance interests).

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 8/1/2019 7:58:52 PM
To: Cook, Leila [cook.leila@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: CA waiver writeup
Attachments: ACCwithdrawal authority 8-1.docx

fyi

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Thursday, August 01, 2019 3:46 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: CA waiver writeup

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We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 7/29/2019 4:06:17 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Re: Cal agreement

Will call you in about 10 minutes

On Jul 29, 2019, at 10:31 AM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Karl –
Are you free?
DD

From: Simon, Karl
Sent: Sunday, July 28, 2019 9:30 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Cook, Leila <cook.leila@epa.gov>
Subject: FW: Cal agreement

David,

Let me know what you think. Can reach me via phone after 11:30 or so tomorrow. thanks

From: Orlin, David
Sent: Friday, July 26, 2019 3:28 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: Cal agreement

Hello OTAQ friends,

Just when you think it's safe to start the weekend, we get some new requests/direction/timeline from Justin (via Elliott, below).

The only written "agreement" between CA and the autos I've seen is the one page posted here

<https://ww2.arb.ca.gov/sites/default/files/2019-07/Auto%20Terms%20Signed.pdf>

Assuming that's all we have, if you have any guesses you'd like to share on questions 2-5 before COB Monday you are free to share them.

However the main reason I wanted to check in is the last paragraph—

Ex. 5 AC/DP

I wanted to see if you would be ready to share a writeup on prong 2 sometime next week (at least to the extent it is a legal interpretation and does not rely on particular facts)

On the one hand, it seems a little crazy to suddenly set deadlines like this, but on the other hand if we are primarily restating prior statements from 2007 and the proposal, maybe it's feasible.

Let me know, and if you don't think you'll have something shareable (or you think prong 2 is primarily fact-dependent) we'll consider next steps.

Thanks, and have a nice weekend,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Zenick, Elliott
Sent: Friday, July 26, 2019 2:54 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Cal agreement

From Justin--

By COB Monday, we need a paper with the following

- (1) what is the CA agreement with the car makers (press release and actual agreement)—we need the document;
- (2) What are the next steps CA and automakers

Ex. 5 Attorney Work Product (AWP)

By next Friday we need to be ready to transmit some portion of draft final text (potential) to OMB. ~~Justin thinks the draft is sufficient to the extent that that it does not rely on facts. He thinks~~
restate

Ex. 5 AC/DP

Assistant General Counsel – ARLO
(202)564-1822

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 7/29/2019 1:29:42 AM
To: Orlin, David [Orlin.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: Cal agreement

Will send you the link to the term sheet.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David
Sent: Friday, July 26, 2019 3:28 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: Cal agreement

Hello OTAQ friends,

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<https://ww2.arb.ca.gov/sites/default/files/2019-07/Auto%20Terms%20Signed.pdf>

Assuming that's all we have, if you have any guesses you'd like to share on questions 2-5 before COB Monday you are free to share them.

However the main reason I wanted to check in is the last paragraph—

Ex. 5 AC/DP

I wanted to see if you would be ready to share a writeup on prong 2 sometime next week (at least to the extent it is a legal interpretation and does not rely on particular facts)

On the one hand, it seems a little crazy to suddenly set deadlines like this, but on the other hand if we are primarily restating prior statements from 2007 and the proposal, maybe it's feasible.

Let me know, and if you don't think you'll have something shareable (or you think prong 2 is primarily fact-dependent) we'll consider next steps.

Thanks, and have a nice weekend,

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Zenick, Elliott

Sent: Friday, July 26, 2019 2:54 PM

To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: Cal agreement

From Justin--

By COB Monday, we need a paper with the following

- (1) what is the CA agreement with the car makers (press release and actual agreement)—we need the document;
- (2) What are the next steps CA and automakers

Ex. 5 Attorney Client (AC)

Ex. 5 AC/DP

Assistant General Counsel – ARLO
(202)564-1822

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 8/13/2019 11:50:17 AM
To: Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: NHTSA's Preemption preamble...making sure you saw this too
Attachments: SAFE FR - Preemption.docx

From: Hengst, Benjamin
Sent: Monday, August 12, 2019 8:00 PM
To: Moran, Robin <moran.robin@epa.gov>; Sargeant, Kathryn <sargeant.kathryn@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>
Cc: Burch, Julia <Burch.Julia@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

fyi

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, August 12, 2019 6:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Since DOJ commented during the call last week that it seemed the NHTSA preemption writeup was insufficiently coordinated with EPA's waiver withdrawal discussion, I asked Justin to get us a copy of NHTSA's upload (see attached).

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, August 12, 2019 6:16 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, August 12, 2019 6:12 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Please see attached.

Sincerely,



Jonathan Morrison
 Chief Counsel
 Department of Transportation
 National Highway Traffic Safety Administration
 1200 New Jersey Avenue SE., Washington, DC 20590

Office: 202-366-9511

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 8/12/2019 10:24:04 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: SAFE FR - Preemption.docx

Since DOJ commented during the call last week that it seemed the NHTSA preemption writeup was insufficiently coordinated with EPA's waiver withdrawal discussion, I asked Justin to get us a copy of NHTSA's upload (see attached).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, August 12, 2019 6:16 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, August 12, 2019 6:12 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Please see attached.

Sincerely,



Jonathan Morrison
Chief Counsel
Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
Office: 202-366-9511

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 7/26/2019 5:48:50 AM
To: Orlin, David [Orlin.David@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
Subject: And so it begins
Attachments: section209brelianceinterestMASTER.docx; section209authorityMASTER.docx

Good morning Gentlemen:

Welcome to Cal recon and revocation 2019.

Ex. 5 AC/DP

Even though written as responses to comments, we should be able to excise text for the preamble, I would hope. I am counting on you to provide comments on everything written, for e.g., substantive comments-do we need to say more/is something missing?, edits, structure-should text be in different places? How about footnotes?, support documents and finally, you might want to pay close attention to highlighted text.

From the name of the files, you will also see that I am starting of with the intent to maintain a MASTER file, which we will use to compare comments and edits from everyone else.

Can I get reactions by cob Wednesday? I just have this sense of foreboding that Justin will be asking for something soooooon...

Thanks.

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 8/9/2019 9:10:55 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Re: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Thanks. Sounds like Sarah was on as well for some or all of it. Have a great weekend and we will talk Monday

On Aug 9, 2019, at 3:02 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Karl –

I announced myself (along with Justin, Gautam, Orlin, Winnie) but I didn't otherwise participate. Attached are a few notes from the call.

David

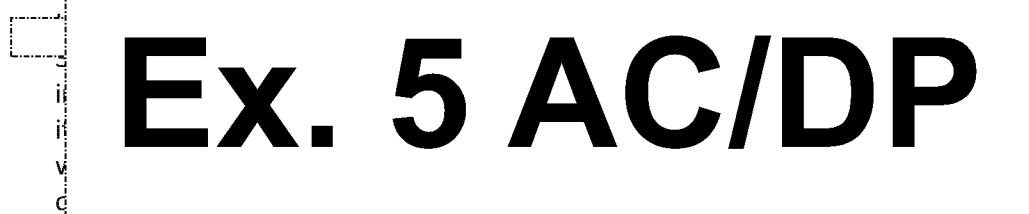
From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Friday, August 09, 2019 9:26 AM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: Re: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Ok. Ok with you calling in but I would try and avoid engaging at this point. On ogc's write up, all you can do at this point is repeat that the technical office that knows more about the substance is not comfortable with it.

On Aug 8, 2019, at 3:13 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Karl –

1. Winnie appears to be accepting OTAQ's comments.
2. ~~Apparently in response to a request from Justin, Winnie is preparing preamble~~



3. DOJ is hosting a call at 1 pm tomorrow (Friday) to review with OGC the legal piece that was sent to OMB. I have the call in number.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, August 08, 2019 1:45 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: RE: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Thanks. Fine with you sending along. Don't think you need the last paragraph as I included it more for sarah's benefit.

From: Dickinson, David
Sent: Thursday, August 8, 2019 12:32 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Karl - Let me know your preference as to whether you or I send my redline to OGC, and whether we include language in the transmittal.

For example:

Thanks for the opportunity to provide comment on this cross-walk exercise. From OTAQ's perspective we think the work on the second prong piece is an appropriate response to that part of the proposal.

This redline draft otherwise clarifies what was proposed in the NPRM in terms of the waiver proposal in general and respective waiver prongs. It gives a good overview of the pieces in play and tries to provide some clarity to the NPRM language which some folks found hard to follow.

David

From: Dunham, Sarah <Dunham.Sarah@epa.gov>
Sent: Thursday, August 08, 2019 12:21 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: Re: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Thanks Karl and David. I have no comments and am fine with you sending along to OGC.

On Aug 8, 2019, at 11:47 AM, Simon, Karl <Simon.Karl@epa.gov> wrote:

Sarah,

The front office of OGC has asked for a "cross-walk" between the elements of the SAFE proposal, pertaining to EPA's proposal to withdraw the waiver for California's GHG and ZEV standards (for the 2021-2025 model years), and what is contained in the initial draft of the final rule that was sent to OMB on August 2nd. David Dickinson edited the draft we received – see attached. I am good with the edits, which were done in order to make the write up more accurate with the proposal.

This redline draft otherwise clarifies what was proposed in the NPRM in terms of the waiver proposal in general and respective waiver prongs. It gives a good overview of the pieces in play and tries to provide some clarity to the NPRM language which some folks found hard to follow.

Let me know if you have any comments or concerns. We will send the edits along by the end of the day. We will also note that from OTAQ's perspective, we think the work on the second prong piece is an appropriate response to the that part of the proposal. Thanks

Karl

<ACCprogramwithdrawalNPRMFRN08-08-19.docx>

<Notes on SAFE final legal call wiht OMB-DOJ etc 8-9-19.docx>

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 9/19/2019 2:51:05 PM
To: Simon, Karl [Simon.Karl@epa.gov]
CC: Lieske, Christopher [lieske.christopher@epa.gov]
Subject: FW: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

Karl
 A reminder about docketing.
 David

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 17, 2019 7:41 PM
To: Dunham, Sarah <Dunham.Sarah@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: FINAL STEP ONE CLEAN AND REDLINE

FYI and please see attached. This is now at OP (and with others, see below). Our understanding of next steps is set forth below. Thanks to all for their amazing individual work and teamwork on this.

From: Schwab, Justin
Sent: Tuesday, September 17, 2019 7:31 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Nickerson, William <Nickerson.William@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 9/5/2019 7:01:13 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: RE: SAFE draft

I have finished making the edits we spoke about today.

My only to do at this point is to figure out whether the EISA savings clause amended the CAA.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, September 05, 2019 2:13 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: FW: SAFE draft

FYI. I told him we will have to think about giving edits given that we seem to be lagging in version control. No need to do anything right now

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, September 5, 2019 9:48 AM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: SAFE draft

Yes.

I just put this version on sharepoint—do you want access to suggest edits directly, or have you/David been giving feedback through Winnie?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Wednesday, September 04, 2019 9:58 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: Re: SAFE draft

That would be a large trolling job by NHTSA

On Sep 4, 2019, at 7:15 PM, Orlin, David <Orlin.David@epa.gov> wrote:

PS we asked Justin if someone was working on a name for the rule and he said NHTSA suggested calling it the One National Program rule (he wasn't sure if they really would, but in any case it was something for others to decide)

PPS DOJ suggested some of the rhetoric he added should be toned down and I suggested he was adopting California delenda est as his motto to which he said it was a beautiful state and it was just the waiver program he was rhetorically attacking

David Orlin
(202) 564-1222

On Sep 4, 2019, at 7:05 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Fyi— we had a call with OIRA and DOJ and got some comments which I expect we'll try to put into this version in the next couple of days.

David Orlin
(202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 4, 2019 at 5:53:53 PM EDT
To: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: **SAFE draft**

Please find attached. This is structurally revised from the last version I circulated. WO, GS and DO can explain further what the next steps are here.

<SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx>

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/30/2019 1:02:26 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: Revised/New and Improved Draft
Attachments: SAFE comparewno.docx

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, August 29, 2019 5:14 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: RE: Revised/New and Improved Draft

Here it is.

I just asked to be reassigned. So stay tuned.

From: Dickinson, David
Sent: Thursday, August 29, 2019 4:56 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Revised/New and Improved Draft

Thanks – Do I have your most recent draft (please send only to me).
DD

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, August 29, 2019 3:20 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: FW: Revised/New and Improved Draft

From: Srinivasan, Gautam
Sent: Thursday, August 29, 2019 2:43 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Re: Revised/New and Improved Draft

Yes, Ex. 5 Attorney Client (AC) Can you please draft
Ex. 5 Attorney Client (AC) If you have questions, please let us know.

Also, you had previously drafted a chart that had in one column what we had proposed. The other (right hand) column was not filled in. For each point/subpoint on the left hand side, can you please fill in what we are doing in the draft final. Please make this your priority after drafting: Ex. 5 Attorney Client (AC)

Thank you so much, Winnie. We are managing the process as best we can, but we also understand you are bearing the burden of the imperfections (to put it mildly).

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

On Aug 29, 2019, at 12:01 PM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Sorry. According to my notes,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Thursday, August 29, 2019 10:47:24 AM

To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>

Subject: RE: Revised/New and Improved Draft

Hi Winnie.

Ex. 5 Attorney Client (AC)

I don't see any discussion elsewhere. Am I missing it?

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>

Sent: Thursday, August 29, 2019 1:14 AM

To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Subject: Revised/New and Improved Draft

Good morning Justin,

Please find attached a new and hopefully, much improved draft of the withdrawal notice, (still in redline) given that it addresses your feedback from yesterday afternoon and also comments from Justice during the inter agency meeting. (specifically,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I have also attached pertinent comments from Global on the SAFE proposal, given that it is mentioned in the discussions on the 3rd waiver prong.

I am also reviewing auto industry comments to see if they made comments indicating that California's enforcement procedures for GHG/ ZEV are inconsistent with sec. 202(a).

Thanks

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/7/2019 8:20:12 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: Crosswalk for ACC waiver withdrawal
Attachments: ACCprogramwithdrawalNPRMFRN08-07-19DD.docx

Karl –

Attached is what I propose to send to Winnie by COB tomorrow. Comments?

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, August 06, 2019 3:09 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Crosswalk for ACC waiver withdrawal

Our FO has requested a checklist or crosswalk of each item we proposed/took comment on in the proposal and how it is addressed in the final. The attached is a draft and because drafting responsibilities for 209(b)(1)(B) reside with OAR, could you please complete #4a-c?

Thank you.

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/2/2019 3:54:04 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: CA waiver writeup
Attachments: EDIT REDLINE ACCwithdrawal 8-2 (authority+criteria).docx

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, August 02, 2019 10:49 AM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: CA waiver writeup

FYI, here is Justin's edited version. I did respond to a few comment bubbles but have not read the redline closely. Also note he left placeholders for whether CA can materially remedy climate effects in CA and prong 3, which is not unexpected.

Per his note below, I think his plan is to turn this around for Anne by early afternoon (still unclear if it will go to OIRA, or if we will be asked to write a piece on 177 not applying to GHGs for this draft)

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Friday, August 02, 2019 10:26 AM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Justin,

I've consulted with Winnie and responded to your comment bubbles in the attached version of the redline.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 02, 2019 12:56 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Please find attached a redline (with bubbles) and a clean version.

I have some points that will need revision Friday morning (indicated in the bubbles) – mostly asking to confirm cites/quotes. Please turn these around as quickly as possible.

I have also provided to Matt L. and to David Harlow. My goal is to pass this on to OAR IO by early Friday afternoon.

From: Orlin, David <Orlin.David@epa.gov>

Sent: Thursday, August 1, 2019 6:08 PM

To: Schwab, Justin <Schwab.Justin@epa.gov>

Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: RE: CA waiver writeup

Justin,

Attached is a version containing both what I already sent you and OTAQ's writeup on prong 2 of the waiver criteria (the first 15 pages should be identical to what you have, except for the added heading on p.1).

I have not looked at their draft, except for purpose of splicing the two documents together in a way that seemed reasonable. OTAQ asked me to emphasize that this is a first draft, and one with very limited management review—they are hoping to engage with Sarah and Anne shortly and their hope is that this version would be not be sent out for interagency review before they have a chance to have more management engagement (and maybe more time to polish it).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Thursday, August 01, 2019 4:17 PM

To: Orlin, David <Orlin.David@epa.gov>

Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: Re: CA waiver writeup

Thank you. I look forward to reviewing this and the next version.

Please advise me of the availability of each team member tomorrow in case we have follow up questions or need additional drafting/revision.

Sent from my iPhone

On Aug 1, 2019, at 3:45 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Justin,

Ex. 5 AC/DP

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Client (AC)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<ACCwithdrawal authority 8-1.docx>

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/13/2019 1:50:34 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE waiver-- notes from DOJ call
Attachments: notes on 8-9-19 DOJ call.docx

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, August 13, 2019 1:17 AM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE waiver-- notes from DOJ call

From: Orlin, David <Orlin.David@epa.gov>
Sent: Monday, August 12, 2019 6:26 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE waiver-- notes from DOJ call

Since I am headed out of town shortly, I went ahead and at least put down on paper my notes from the call on Friday with DOJ, the White House and DOT/NHTSA on the waiver and EPCA preemption discussions for the SAFE rule.

Please feel free to adjust the notes as seems consistent with your recall to the extent you might remember them differently. I left one or two notes about how we might address a couple points, but mostly I just tried to put down the conversation as I remembered it without extra commentary on whether it's even possible to address the comments.

Winnie—FYI at the end of reg review Justin indicated that he would like to know when we could have a redraft of the pieces that we'd consider our responsibility. My guess is he'd like an estimated schedule by reg review tomorrow (1 pm) if possible and in an ideal world he'd like to be able to give the redraft to Matt on Wednesday evening, before he heads out of the office for a few days (but he acknowledged that just not might be possible).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Good luck—I am counting on you guys to finish this up while I am gone! 😊

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/9/2019 7:02:31 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: RE: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver
Attachments: Notes on SAFE final legal call wiht OMB-DOJ etc 8-9-19.docx

Karl –

I announced myself (along with Justin, Gautam, Orlin, Winnie) but I didn't otherwise participate. Attached are a few notes from the call.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Friday, August 09, 2019 9:26 AM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: Re: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Ok. Ok with you calling in but I would try and avoid engaging at this point. On ogc's write up, all you can do at this point is repeat that the technical office that knows more about the substance is not comfortable with it.

On Aug 8, 2019, at 3:13 PM, Dickinson, David <Dickinson.David@epa.gov> wrote:

Karl –

1. Winnie appears to be accepting OTAQ's comments.
2. ~~Apparently in response to a request from Justin, Winnie is preparing preamble text to address~~

Ex. 5 AC/DP

3. DOJ is hosting a call at 1 pm tomorrow (Friday) to review with OGC the legal piece that was sent to OMB. I have the call in number.

David

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, August 08, 2019 1:45 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: RE: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Thanks. Fine with you sending along. Don't think you need the last paragraph as I included it more for sarah's benefit.

From: Dickinson, David
Sent: Thursday, August 8, 2019 12:32 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Karl - Let me know your preference as to whether you or I send my redline to OGC, and whether we include language in the transmittal.

For example:

Thanks for the opportunity to provide comment on this cross-walk exercise. From OTAQ's perspective we think the work on the second prong piece is an appropriate response to that part of the proposal.

This redline draft otherwise clarifies what was proposed in the NPRM in terms of the waiver proposal in general and respective waiver prongs. It gives a good overview of the pieces in play and tries to provide some clarity to the NPRM language which some folks found hard to follow.

David

From: Dunham, Sarah <Dunham.Sarah@epa.gov>

Sent: Thursday, August 08, 2019 12:21 PM

To: Simon, Karl <Simon.Karl@epa.gov>

Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>

Subject: Re: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver

Thanks Karl and David. I have no comments and am fine with you sending along to OGC.

On Aug 8, 2019, at 11:47 AM, Simon, Karl <Simon.Karl@epa.gov> wrote:

Sarah,

The front office of OGC has asked for a "cross-walk" between the elements of the SAFE proposal, pertaining to EPA's proposal to withdraw the waiver for California's GHG and ZEV standards (for the 2021-2025 model years), and what is contained in the initial draft of the final rule that was sent to OMB on August 2nd. David Dickinson edited the draft we received – see attached. I am good with the edits, which were done in order to make the write up more accurate with the proposal.

This redline draft otherwise clarifies what was proposed in the NPRM in terms of the waiver proposal in general and respective waiver prongs. It gives a good overview of the pieces in play and tries to provide some clarity to the NPRM language which some folks found hard to follow.

Let me know if you have any comments or concerns. We will send the edits along by the end of the day. We will also note that from OTAQ's perspective, we think the work on the second prong piece is an appropriate response to the that part of the proposal. Thanks

Karl

<ACCprogramwithdrawalNPRMFRN08-08-19.docx>

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/8/2019 5:55:02 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Simon, Karl [Simon.Karl@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: Crosswalk for ACC waiver withdrawal
Attachments: ACCprogramwithdrawalNPRMFRN08-08-19.docx

Winnie –

Thanks for the opportunity to provide comment on this cross-walk exercise. From OTAQ's perspective we think the work on the second prong piece is an appropriate response to that part of the proposal.

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, August 06, 2019 3:09 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Crosswalk for ACC waiver withdrawal

Our FO has requested a checklist or crosswalk of each item we proposed/took comment on in the proposal and how it is addressed in the final. The attached is a draft and because drafting responsibilities for 209(b)(1)(B) reside with OAR, could you please complete #4a-c?

Thank you.

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 8/8/2019 3:28:48 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: Exercise to Compare the SAFE Proposal to Initial Draft sent to OMB re CA Waiver
Attachments: ACCprogramwithdrawalNPRMFRN08-08-19.docx

Karl –

As you know, the front office of OGC has asked for a “cross-walk” between the elements of the SAFE proposal, pertaining to EPA’s proposal to withdraw the waiver for California’s GHG and ZEV standards (for the 2021-2025 model years), and what is contained in the initial draft of the final rule that was sent to OMB on August 2nd. The attached is my redline response to a draft table prepared by OGC staff.

Although OTAQ did not take the lead on drafting the waiver withdrawal proposal (a role OTAQ normally assumes on waiver actions) we nevertheless provided a piece of the initial draft of the final rule related to the second waiver prong where a possible argument exists.

Ex. 5 Attorney Client (AC)

This redline draft otherwise clarifies what was proposed in the NPRM in terms of the waiver proposal in general and respective waiver prongs.

Let me know of any questions,
David

Message

From: Dickinson, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE903E3F06AA4BB7B3F1158653F6DAC5-DDICKINS]
Sent: 6/18/2019 6:35:08 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE - waiver revocation piece

From: Okoye, Winifred
Sent: Tuesday, June 18, 2019 2:22 PM
To: Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE - waiver revocation piece

From: Schwab, Justin
Sent: Tuesday, June 18, 2019 2:02 PM
To: Okoye, Winifred; Kataoka, Mark; Orlin, David; Zenick, Elliott; Srinivasan, Gautam
Subject: SAFE - waiver revocation piece

Bill has asked that we move full steam ahead on the process of getting a final product here. We need to meet soon (later this week if possible) to figure out what needs to be done, who needs to do it, and time frame. Response to comments will be part of this process.

Message

Sent: 9/17/2019 3:13:49 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Woods, Clint [woods.Clint@epa.gov]
Subject: Separate RLSO
Attachments: dsh RLSO ACC209b1Bconstructcomments.docx

Justin,

Attached is an RLSO on Winnifred's piece. When I tried to save it to the Sharepoint file, there were apparently so many people working on the document at the same time that I ran into a lot of "conflicts." Rather than "resolve" them, I thought I'd pass along my thoughts, for what they're worth.

The only significant substantive

David S. Harlow
Senior Counsel
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

Appointment

From: Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]
Sent: 9/14/2019 2:58:29 AM
To: Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)] Srinivasan, Gautam
 [Srinivasan.Gautam@epa.gov]; Harlow, David [harlow.david@epa.gov]; Schwab, Justin [schwab.justin@epa.gov];
 Bolen, Brittany [bolen.brittany@epa.gov]; Woods, Clint [woods.Clint@epa.gov]; Idsal, Anne [idsal.anne@epa.gov];
 Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]; Nickerson, William [Nickerson.William@epa.gov]; Miller, Wendy
 (ENRD) [Wendy.Miller@usdoj.gov]; justin.smith@usdoj.gov

Subject: FW: SAFE - Holding Time for Discussion on Comments
Location: [Ex. 6 Personal Privacy (PP)]

Start: 9/17/2019 8:00:00 PM
End: 9/17/2019 9:00:00 PM
Show Time As: Busy

Recurrence: (none)

From: Hageman, Sharon E. EOP/OMB
 Sent: Friday, September 13, 2019 11:37:03 PM UTC
 To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD);
 justin.smith@usdoj.gov
 Subject: SAFE - Holding Time for Discussion on Comments
 When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
 Where: [Ex. 6 Personal Privacy (PP)]

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption
 final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Appointment

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 9/14/2019 2:58:28 AM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Harlow, David [harlow.david@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Woods, Clint [woods.clint@epa.gov]; Idsal, Anne [idsal.anne@epa.gov]

Subject: FW: SAFE - Holding Time for Discussion on Comments

Location: Ex. 6 Personal Privacy (PP)

Start: 9/17/2019 8:00:00 PM

End: 9/17/2019 9:00:00 PM

Show Time As: Tentative

Recurrence: (none)

From: Hageman, Sharon E. EOP/OMB
Sent: Friday, September 13, 2019 11:37:03 PM UTC
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
Where: Ex. 6 Personal Privacy (PP)

Hello all,
Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
Thanks,
Sharon

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 8/1/2019 10:25:38 PM
To: Harlow, David [harlow.david@epa.gov]
Subject: DRAFT - DELIBERATIVE - ATTORNEY CLIENT
Attachments: EDIT ACCwithdrawal 8-1 (authority+criteria).docx

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/17/2019 1:27:39 PM
To: Harlow, David [harlow.david@epa.gov]
Subject: FW: Comments on 209(b)(1)(B) construct
Attachments: ACC209b1BconstructcommentsARLO.docx

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, September 17, 2019 9:27 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Comments on 209(b)(1)(B) construct

As requested it is attached in a word file/

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/4/2019 3:29:43 PM
To: Harlow, David [harlow.david@epa.gov]
Subject: FW: draft rule for this afternoon's SAFE briefing
Attachments: SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx

Pending approval by AW, if you want to start working your magic, this is the one to go off of. I'd start with the joint intro and roman numeral III, the latter of which is EPA's specific piece.

From: Schwab, Justin
Sent: Wednesday, September 4, 2019 11:08 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Jones, Lindsey <jones.lindsey@epa.gov>
Subject: FW: draft rule for this afternoon's SAFE briefing

From: Schwab, Justin
Sent: Wednesday, September 4, 2019 11:08 AM
To: Scott, Corey <scott.corey@epa.gov>; Hyman, Alana <Hyman.Alana@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: draft rule for this afternoon's SAFE briefing

Please find attached.

It is 139 pages long.

Please print and put in its own three-ring binder.

The shorter paper I sent earlier this morning has, on the second page, an outline of this attached draft rule. We will walk AW through it in this afternoon's briefing.

(I will also bring 10 print copies of the 2-pager and 2 print copies of this attachment.)

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 9/13/2019 7:33:55 PM
To: Nickerson, William [Nickerson.William@epa.gov]
CC: Bolen, Brittany [bolen.brittany@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Harlow, David [harlow.david@epa.gov]
Subject: SAFE Draft

Bill,

I hope all is well! Just wanted to flag that we are hoping to send a clean draft of SAFE waiver sections for OIRA before 5:00 today. I believe NHTSA provided their sections via email to Rich Theroux late yesterday, and we were hoping to do something similar. If you are available to transmit, we will send you over a comment-less copy at 4:45.

Thanks!

Clint

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 9/4/2019 10:20:21 AM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Re: SAFE step one 2-pager

Justin,

This looks very good to me. A couple of editorial suggestions for your consideration:

1. The second sentence, consider

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

2. In the outline section, I stumbled a bit over

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

That's all I had. Nicely done.

Sent from my iPhone

On Sep 3, 2019, at 8:19 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Please find attached.

<SAFE Step One Summary 09032019.docx>

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 9/15/2019 10:25:36 PM
To: Schwab, Justin [schwab.justin@epa.gov]
Subject: RE: Matt L.' SAFE comments

I had to look up “Eloi.” But, yes, I saw the movie version once.

David S. Harlow
Senior Counsel
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 6:21 PM
To: Harlow, David <harlow.david@epa.gov>
Subject: RE: Matt L.' SAFE comments

I’m 40! I’m only “young” in this degenerate Eloi society we got going here.

From: Harlow, David <harlow.david@epa.gov>
Sent: Sunday, September 15, 2019 6:20 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: Matt L.' SAFE comments

Yes, but “water law” is different anyway. ☺

But, yeah, Matt is still a youngster in my eyes. As are you ... albeit one of them prodigy type of youngsters you read about.

David S. Harlow
Senior Counsel
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 6:17 PM
To: Harlow, David <harlow.david@epa.gov>
Subject: RE: Matt L.' SAFE comments

He may not be an **air** lawyer of long experience, but he's been doing environmental since before I went to law school. (Of course, he and I were in grade school when you started on the Act. Don't let his grey hair fool you.)

From: Harlow, David <harlow.david@epa.gov>
Sent: Sunday, September 15, 2019 6:14 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: Matt L.' SAFE comments

Very nice.

As Clint and you have repeatedly said, while Matt may not be an environmental lawyer of long experience, he more than compensates with seriously good gut instincts.

David S. Harlow
Senior Counsel
Immediate Office of the Acting Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 6:11 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Matt L.' SAFE comments

I'm going to put at least robust placeholders in redline for all these points. Anyone with bandwidth to take one on this evening, or first thing tomorrow, please let me know and we can divide it up.

[Following is Matt]

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

Sent: 9/12/2019 5:53:18 PM
To: Schwab, Justin [schwab.justin@epa.gov]; Harlow, David [harlow.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE comment question
Attachments: CARB Detailed Comments10-26-2018.pdf

We understand that SIPs and transportation conformity analyses must be based on the latest emission model. In California the model is known as EMFAC2014 (Reg 9 is considering approving a newer model-EMFAC2017).

Here is an excerpt from CARB's (attached) and States & Cities comments on the SAFE proposal

"The GHG emission standards and ZEV requirements in California's Advanced Clean Cars (ACC) program, with its approval into California's SIP in 2012, was integrated into the Emission Factor (EMFAC2014) transportation model. ... If California's programs to achieve reductions from the light-duty sector are invalidated, the inventories based on EMFAC2014 would no longer be valid, and EPA would disapprove SIPs and associated motor vehicle emission budgets (MVEB) used to demonstrate transportation conformity, as the budgets derived from EMFAC2014 would include the effects of regulations no longer valid."

CARB's comment at 288-289.

Further, these increases in emissions will undermine state implementation plans (SIPs). A SIP is a federally enforceable plan that identifies how a state will attain and maintain national ambient air quality standards (NAAQS). SIPs must identify both the magnitude of reductions needed and the actions necessary to achieve those reductions in order to meet NAAQS. SIPs also include a demonstration that the area: will make reasonable further progress toward attainment, is implementing reasonably available control technology on all major sources, has a program in place to address emissions from new stationary sources, and meets transportation conformity requirements.

State and cities comments at 34.

2. We are fairly certain that there were no comments on section 243-246. Find also attached the second circuit decision overruling a decision that would have had the effect of "abrogation," of the CA's LEV program given that it might be somewhat relevant to EPCA preemption.

In light of Congress' recognition, when it amended the Act in 1990, of California's LEV program, including the ZEV mandate, see, e.g., Act §§ 241(4), 243(f), 246(f)(4), 42 U.S.C. §§ 7581(4), 7583(f), 7586(f)(4), we are disinclined to pave the way for a nullification of New York's Part 218 Regulations or to impair any other state's ability to adopt California's LEV plan. It would be inappropriate to construe the 1990 amendments in a manner that would effectively prohibit any state from opting into the California program since Congress so obviously planned for the several states to have that option. See *Lewis v. Grinker*, 965 F.2d 1206, 1215 (2d Cir.1992). Because the district court may unintentionally have laid the groundwork for an abrogation of the entire LEV plan, its decision on this issue must be reversed.

Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. New York State Dep't of Env'tl. Conservation, 17 F.3d 521, 537 (2d Cir. 1994)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Thursday, September 12, 2019 12:47 PM

To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Harlow, David <harlow.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Subject: SAFE comment question

Please determine whether we received any comments on:

- 1) Conformity (Transportation or general)
- 2) CAA 243-246 (as discussed yesterday)

Message

Sent: 9/12/2019 5:49:09 PM
To: Schwab, Justin [schwab.justin@epa.gov]; Harlow, David [harlow.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE comment question
Attachments: CARB Detailed Comments10-26-2018.pdf

We understand that SIPs and transportation conformity analyses must be based on the latest emission model. In California the model is known as EMFAC2014 (Reg 9 is considering approving a newer model-EMFAC2017).

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"The GHG emission standards and ZEV requirements in California's Advanced Clean Cars (ACC) program, with its approval into California's SIP in 2012, was integrated into the Emission Factor (EMFAC2014) transportation model. ... If California's programs to achieve reductions from the light-duty sector are invalidated, the inventories based on EMFAC2014 would no longer be valid, and EPA would disapprove SIPs and associated motor vehicle emission budgets (MVEB) used to demonstrate transportation conformity, as the budgets derived from EMFAC2014 would include the effects of regulations no longer valid."

CARB's comment at 288-289.

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State and cities comments at 34.

2.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Thursday, September 12, 2019 12:47 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Harlow, David <harlow.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE comment question

Please determine whether we received any comments on:

- 1) Conformity (Transportation or general)
- 2) CAA 243-246 (as discussed yesterday)

Message

Sent: 9/12/2019 5:48:41 PM
To: Schwab, Justin [schwab.justin@epa.gov]; Harlow, David [harlow.david@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE comment question
Attachments: CARB Detailed Comments10-26-2018.pdf

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"The GHG emission standards and ZEV requirements in California's Advanced Clean Cars (ACC) program, with its approval into California's SIP in 2012, was integrated into the Emission Factor (EMFAC2014) transportation model. ... If California's programs to achieve reductions from the light-duty sector are invalidated, the inventories based on EMFAC2014 would no longer be valid, and EPA would disapprove SIPs and associated motor vehicle emission budgets (MVEB) used to demonstrate transportation conformity, as the budgets derived from EMFAC2014 would include the effects of regulations no longer valid."

CARB's comment at 288-289.

Further, these increases in emissions will undermine state implementation plans (SIPs). A SIP is a federally enforceable plan that identifies how a state will attain and maintain national ambient air quality standards (NAAQS). SIPs must identify both the magnitude of reductions needed and the actions necessary to achieve those reductions in order to meet NAAQS. SIPs also include a demonstration that the area: will make reasonable further progress toward attainment, is implementing reasonably available control technology on all major sources, has a program in place to address emissions from new stationary sources, and meets transportation conformity requirements.

State and cities comments at 34.

2.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Thursday, September 12, 2019 12:47 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Harlow, David <harlow.david@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE comment question

Please determine whether we received any comments on:

- 1) Conformity (Transportation or general)
- 2) CAA 243-246 (as discussed yesterday)

Okoye, Winifred

From: Dickinson, David
Sent: Tuesday, February 26, 2019 5:39 PM
To: Okoye, Winifred
Subject: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion
Attachments: CEI CAFE Comments Final_0.pdf; CARB Detailed Comments10-26-2018.pdf; CBD-NRDC - EDF et al.pdf; California and other State AG detailed comments.pdf; Alliance Comments.pdf

Winnie –

1. The SAFE NPRM - <https://www.govinfo.gov/content/pkg/FR-2018-08-24/pdf/2018-16820.pdf>
 - Page 42999 – in summary section spells out a proposal to revoke the 2013 waiver that EPA granted – for ZEV and GHG. It doesn't specify for what model years but later in NPRM the 2021-2025 model years are noted. The summary only points (somewhat indirectly) to the 2nd waiver criteria in 209(b) – “need for such State standards to meet compelling and extraordinary conditions – and notes that an attempt to address a global issue thru 209, which was designed to address smog or local/regional air quality problems is inappropriate under the criteria. This page also summarizes the EPCA preemption argument that CA's ZEV and GHG standards are related to fuel economy and therefore conflicts directly and indirectly with EPCA.
 - 43210 – EPCA preemption discussion in context of what state standards NHTSA must take into consideration when setting CAFÉ.
 - 43232 – 43253; Section VI “Preemption of State and Local Laws” covers EPCA and CAA preemption issues. In brief the NPRM proposes to revoke the CAA waiver based on the 2nd and 3rd criteria (no need for the standards, the standards aren't consistent with 202(a) in terms of feasibility and cost, respectively). It also attempts to propose to revoke on the 1st waiver criteria (CARB's standards not as protective, in the aggregate, as federal standards) based on the idea that if CARB's ZEV and GHG standards are preempted by EPCA then by definition they can't get a CAA waiver or that CARB's standards can't be as protective.
 - Section 177 states – the NPRM notes EPCA preemption applying to states that have adopted CARB's ZEV and GHG standards, and that under the terms/title of section 177 states may only adopt standards aimed to address NAAQS/criteria pollutants and therefor ZEV and GHG can't be adopted under 177,
2. CARB's detailed comments – attached. The table of contents in the comments provides a good guide of the issues presented in the NPRM with respect to EPCA and CAA preemption. (It is also a good guide on the issues related to the federal rulemaking for GHG and CAFÉ levels).
 - Section III – pages 23-67 give an overview of the role played by California since 1967 up to the Advanced Clean Car program (this is the regulation that includes GHG, ZEV, and LEV III).
 - Section VII – pages 282-308 gives an overview of the public health impacts (including NAAQS/SIP impacts) from revoking ZEV and GHG regulations in CA.
 - Section X – pages 336-387 provides arguments on the CA waiver revocation – including whether EPA has the threshold authority to reconsider a waiver that is an adjudication, and the authority to retroactively apply a new interpretation of the criteria in section 209 and a new application of the facts therein, along with arguments on the 2nd and 3rd waiver criteria.
 - Section XI = pages 388-408 provides arguments on the EPCA preemption issue, including whether NHTSA has the authority to issue interpretations and regulations that preempt CA's standards. Also discusses the criteria pollutant and public health purposes of ZEV and GHG and how not related to fuel economy.
3. Enviro – CBD/EDF/NRDC/Sierra Club, etc – attached, again the table of contents is helpful.
 - Pages 67-166 – a variety of arguments against CAA waiver revocation and against EPCA preemption

4. State AGs -
 - Pages 109-135 – discusses inappropriateness to revoke CA waiver, EPCA preemption, and section 177 issues
5. Auto Alliance
 - Pages 175-181 goes into history of EPCA preemption agreement on national program
 - If national/state program can't be achieved then NHTSA should assert EPCA preemption for GHG and ZEV
 - Pages 181-186 if national/state program can't be achieved EPA has ability to withdraw waiver for ZEV and GHG
6. Global Automakers
 - Tracking down their detailed comments
7. Competitive Enterprise Institute
 - Pages 9- 21 EPCA preemption and that existing court decisions are bad law, dismisses process associated with previous national program rulemaking
 - Pages 21-25 EPA should withdraw waiver on all grounds asserted in the NPRM
 - Pages 25-26 section 177 states don't have authority for GHG and ZEV standards
 - Additional discussion of 2nd waiver prong history

David Dickinson
OTAQ/Attorney-Advisor

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 8/27/2019 2:56:25 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE California redline draft

Got it. Thank you.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, August 27, 2019 10:55 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE California redline draft

Hi Boss,

Yes it is still the current draft.

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, August 27, 2019 10:23:37 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE California redline draft

Hey there Winnie. Is the draft you sent on Thursday still the current draft? Justin didn't get to this over the weekend and is going to start reviewing today (as am I). FYI, it is possible we'll be asked to do a passback by the end of the week.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, August 22, 2019 11:02 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE California redline draft

Good evening Justin,

As requested, the attached is a redline draft that addresses areas that fall within ARLO's responsibility and also some of the issues raised by DOJ during last Friday's interagency meeting. But, please note that this is still a work in progress and does not for instance address EPCA preemption as of yet.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Another thing to bear in mind is that we have not received any OTAQ redraft for the second waiver prong subsequent to Friday's interagency. It runs from page 31 through 45 of this draft and it might therefore be a good idea to skip review of that portion for now.

Finally, I have attached the 1984 FRN where the agency first discussed the second waiver prong as calling for whether California needs its own motor vehicle program to meet compelling and extraordinary conditions. The relevant discussion begins at 49 FR 18889. Please, let me know if you would like to see any comments on the SAFE proposal such as comments from the Global Association.

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 6/21/2019 4:43:28 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

Great! Thank you.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred
Sent: Friday, June 21, 2019 12:40 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Fw: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

Boss,

this is a one page summary that should give you a flavor for what we heard at proposal.

From: Dickinson, David
Sent: Tuesday, February 26, 2019 5:39 PM
To: Okoye, Winifred
Subject: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

Winnie –

1. The SAFE NPRM - <https://www.govinfo.gov/content/pkg/FR-2018-08-24/pdf/2018-16820.pdf>

-

Ex. 5 AC/DP

- 43210 – EPCA preemption discussion in context of what state standards NHTSA must take into consideration when setting CAFÉ.

- 43232 – 43253; Section VI “Preemption of State and Local Laws” covers EPCA and CAA preemption issues. In brief the NPRM proposes to revoke the CAA waiver based on the 2nd and 3rd criteria (no need for the standards, the standards aren’t consistent with 202(a) in terms of feasibility and cost, respectively). It also attempts to propose to revoke on the 1st waiver criteria (CARB’s standards not as protective, in the aggregate, as federal standards) based on the idea that if CARB’s ZEV and GHG standards are preempted by EPCA then by definition they can’t get a CAA waiver or that CARB’s standards can’t be as protective.

Ex. 5 AC/DP

2. CARB’s detailed comments – attached. The table of contents in the comments provides a good guide of the issues presented in the NPRM with respect to EPCA and CAA preemption. (It is also a good guide on the issues related to the federal rulemaking for GHG and CAFÉ levels).
 - Section III – pages 23-67 give an overview of the role played by California since 1967 up to the Advanced Clean Car program (this is the regulation that includes GHG, ZEV, and LEV III).
 - Section VII – pages 282-308 gives an overview of the public health impacts (including NAAQS/SIP impacts) from revoking ZEV and GHG regulations in CA.
 - Section X – pages 336-387 provides arguments on the CA waiver revocation – including whether EPA has the threshold authority to reconsider a waiver that is an adjudication, and the authority to retroactively apply a new interpretation of the criteria in section 209 and a new application of the facts therein, along with arguments on the 2nd and 3rd waiver criteria.
 - Section XI = pages 388-408 provides arguments on the EPCA preemption issue, including whether NHTSA has the authority to issue interpretations and regulations that preempt CA’s standards. Also discusses the criteria pollutant and public health purposes of ZEV and GHG and how not related to fuel economy.
3. Enviro – CBD/EDF/NRDC/Sierra Club, etc – attached, again the table of contents is helpful.
 - Pages 67-166 – a variety of arguments against CAA waiver revocation and against EPCA preemption
4. State AGs -
 - Pages 109-135 – discusses inappropriateness to revoke CA waiver, EPCA preemption, and section 177 issues
5. Auto Alliance
 - Pages 175-181 goes into history of EPCA preemption agreement on national program

- If national/state program can't be achieved then NHTSA should assert EPCA preemption for GHG and ZEV
- Pages 181-186 if national/state program can't be achieved EPA has ability to withdraw waiver for ZEV and GHG

6. Global Automakers

- Tracking down their detailed comments

7. Competitive Enterprise Institute

- Pages 9- 21 EPCA preemption and that existing court decisions are bad law, dismisses process associated with previous national program rulemaking
- Pages 21-25 EPA should withdraw waiver on all grounds asserted in the NPRM
- Pages 25-26 section 177 states don't have authority for GHG and ZEV standards
- Additional discussion of 2nd waiver prong history

David Dickinson
OTAQ/Attorney-Advisor

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/5/2019 5:56:26 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: Additional comments on draft SAFE waiver rule

If there is nothing in the document on the EPA piece, then I think I can fairly ask whether we are needed tomorrow.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, September 5, 2019 1:54 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: Additional comments on draft SAFE waiver rule

I guess I can change my plans now and listen in to this call.

From: Orlin, David
Sent: Thursday, September 05, 2019 1:54 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Additional comments on draft SAFE waiver rule

Winnie—were you planning on coming to MTE, or could you listen in?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, September 05, 2019 1:51 PM
To: Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: Additional comments on draft SAFE waiver rule

And now I see this meeting will overlap with the MTE argument.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

-----Original Appointment-----

From: Nickerson, William <Nickerson.William@epa.gov> **On Behalf Of** Oreska, Matthew P. EOP/OMB
Sent: Thursday, September 5, 2019 1:40 PM
To: Srinivasan, Gautam; Schwab, Justin
Subject: FW: Additional comments on draft SAFE waiver rule
When: Friday, September 6, 2019 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Ex. 6 Personal Privacy (PP)

-----Original Appointment-----

From: Oreska, Matthew P. EOP/OMB <

Ex. 6 Personal Privacy (PP)

Sent: Thursday, September 05, 2019 11:34 AM

To: Oreska, Matthew P. EOP/OMB; Nickerson, William

Subject: Additional comments on draft SAFE waiver rule

When: Friday, September 06, 2019 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: **Ex. 6 Personal Privacy (PP)**

We will hold a second call so we can provide additional EOP comments to EPA and DOT. Please circulate this calendar invitation to the individuals who should be on this call.

Thank you,

Matthew

Message

From: Okoye, Winifred [Okoye.Winifred@epa.gov]
Sent: 8/22/2019 6:04:00 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: latest draft
Attachments: SAFE compare.docx

I understand. Here's the draft. The 2nd waiver prong is still a work in progress. But I think I like Justin's suggestion to hinge it on "need & meet."

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, August 22, 2019 1:15:16 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: latest draft

Hi Winnie. Can you send me the latest draft of the waiver piece? Thanks. Sorry our time got short and was a little frenetic to boot.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

Message

From: Okoye, Winifred [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1420F26C78B344389771ACDE30F2368C-WOKOYE]
Sent: 8/15/2019 10:30:02 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: waiver
Attachments: SAFE compare.docx

Thanks Boss,

The attached is in response to your comments and edits, which were quite helpful.

I plan on dropping off materials for our discussions before I depart this evening just in case.

I'll let you know where I will be tomorrow by tomorrow morning.

Thanks.

From: Srinivasan, Gautam
Sent: Thursday, August 15, 2019 7:31 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: waiver

Hi Winnie- Thank you for your work on this. I am sorry that the process can't be better. I've included some comments in the attached. This document is a "compare" I ran of the version we sent to OMB and the version you sent me. All the redline should be text you added. The document made all comments anonymous, so I tried to include a "From GS" in all the comment bubbles I added and highlighted text I inserted. I didn't highlight deletions because all deletions should be from me. I hope it relatively clear who did what.

Ex. 5 Deliberative Process (DP)

address everything from DOJ. From your draft email to Justin, it also sounds like you'd like to have discussion on the (b)(1)(B) argument. Justin is available to meet on Friday. Will you be in?

I will find time for us to talk this morning/early afternoon.

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 8/1/2019 3:07:17 PM
To: Charmley, William [charmley.william@epa.gov]
CC: Lieske, Christopher [lieske.christopher@epa.gov]
Subject: RE: Deliberative: SAFE Comment Category List from NHTSA, with request from OAR leadership

Thanks Bill, and Chris. Could you also ask them to add Winifred Okoye? She is the lead for OGC on the waiver piece and it would likely be helpful for her as well.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Charmley, William <charmley.william@epa.gov>
Sent: Thursday, August 01, 2019 10:58 AM
To: Orlin, David <Orlin.David@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Wysor, Tad <wysor.tad@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: Deliberative: SAFE Comment Category List from NHTSA, with request from OAR leadership

David,

Later today, Chris Lieske will ask our contractor Abt, to provide access to Justin, you, Mark and Seth to the searchable database we paid them to create for the SAFE rule public comments.

Please let Justin know he should be on the look-out for an email from "Abt" which will provide access.

That is all this database is – a searchable tool for the comments.

Thanks
 Bill

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, August 01, 2019 9:22 AM
To: Charmley, William <charmley.william@epa.gov>; Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Wysor, Tad <wysor.tad@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: RE: Deliberative: SAFE Comment Category List from NHTSA, with request from OAR leadership

Hi Bill,

I got a call from Justin Schwab who is trying to figure out if anyone raised a specific issue in comments. Do you know of a way he could word search the comments? Do we have a database of comments (or will regulations.gov word searches work on the text of a PDF comment)?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Charmley, William <charmley.william@epa.gov>

Sent: Wednesday, July 31, 2019 5:47 AM

To: Olechiw, Michael <olechiw.michael@epa.gov>; Moran, Robin <moran.robin@epa.gov>; Bolon, Kevin <Bolon.Kevin@epa.gov>; Sherwood, Todd <sherwood.todd@epa.gov>; Lieske, Christopher <lieske.christopher@epa.gov>; Wysor, Tad <wysor.tad@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>

Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>

Subject: FW: Deliberative: SAFE Comment Category List from NHTSA, with request from OAR leadership

Importance: High

Dear all –

At the end of yesterday we had a CTI rule meeting with AA Idsal and Deputy AA Woods. Both Ben and Lee were in that meeting, so if there is anything on the SAFE rule that I missed please let me know.

At the end of that meeting, Anne and Clint shared a few updates on the SAFE FRM development.

Response to Comments Document

- EPA and NHTSA leadership have decided that there will be a separate Response to Comments document. They would like to use the EPA historic approach of responding to major comments directly in the preamble, and then use a Response to Comments document for additional detail on major issues, and also use the RTC to summarize/respond to all of the non-major comments on the NPRM
- NHTSA provided the attached document to EPA, and the EPA leadership would like OTAQ to mark up the document to indicate which comment areas EPA will take the lead on
 - Clint's note below regarding miscommunication was just because Anne thought that OTAQ had already received the document earlier on Tuesday
 - In the attached document, I have added comment fields indicating which items I think OTAQ will take the lead on. Please review. I would like to send this back to the OAR leadership by COB on Thursday, August 1.

Status of FRM drafting for the issues we are currently working on

- Anne asked about the status of the items that OTAQ is drafting now for the FRM, those items we presented on July 11 (flexibilities, off-cycle, etc.)
- I told Anne that as a follow-up to our meeting with her on July 25, when she asked us to try and accelerate our efforts, we have come up with a plan to deliver those items to OAR on Thursday, August 8
- Anne asked if we could accelerate that schedule, and I told her I didn't know, but we understood the request. I asked if the goal was for the OAR leadership to send those items to NHTSA, and she said yes.
- After the meeting in a discussion with Lee and Ben, Lee suggested that perhaps one way to be responsive to Anne's request is to break up the preamble items, and if we can finish one of them, send that one.
- So – I would like to know if we could complete the Flexibilities discussion so that we could send that to the OAR leadership next week on Monday, August 5, and then the rest of the sections by COB on Thursday, August 8.
 - Please let me know today what folks thoughts are on that approach.

Regarding the NHTSA CAFE modeling results that can be used for the SAFE final rule, Anne indicated that EPA would be receiving results from NHTSA later this month, I believe she said the week of August 19, though she may have said the week of August 25.

I have a bunch of open time on my calendar this afternoon, so if there is a need to meet with me for 15 or 20 minutes on these topics, please let me know and I'll schedule a discussion. If we don't need a meeting, that works as well.

Thanks
Bill

From: Woods, Clint <woods.clint@epa.gov>
Sent: Tuesday, July 30, 2019 5:07 PM
To: Charmley, William <charmley.william@epa.gov>
Subject: FW: Deliberative: SAFE Comment Category List

Sorry for miscommunication – I believe this is what Anne referenced.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, July 29, 2019 5:17 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: King, Heidi (NHTSA) <heidi.king@dot.gov>; Owens, James (OST) <James.Owens@dot.gov>; Jim Tamm <james.tamm@dot.gov>; Rutledge, Ross (NHTSA) <ross.rutledge1@dot.gov>
Subject: Deliberative: SAFE Comment Category List

Anne and Clint,

As follow-up to our discussion on Friday, please see the attached list of NPRM comment categories that NHTSA is using for sorting comments. The list is an expanded version of the list NHTSA shared with EPA in December, reflecting further review of the comments.

Per Friday's discussion, we'll look for EPA to recommend the topics for which EPA would like to draft initial responses. Let's keep in mind that, because the category list is at a fairly high level, our teams are likely to identify some specific comments that are most appropriately addressed by the other agency as they review and respond to specific comments.

Sincerely,



Jonathan Morrison
 Chief Counsel
Department of Transportation
 National Highway Traffic Safety Administration
 1200 New Jersey Avenue SE., Washington, DC 20590
 Office: 202-366-9511

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 8/1/2019 1:58:30 PM
To: Schwab, Justin [schwab.justin@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Mark Kataoka (Kataoka.Mark@epa.gov) [Kataoka.Mark@epa.gov]
Subject: RTC outline for SAFE rule
Attachments: Comment Categories 2022-20265 CAFE 190729 to EPA.docx

Justin,

Per your request, attached is the outline NHTSA put together in preparation for putting together an response to comments document on the SAFE rule. I am still trying to figure out if there is a way to word search comments and will let you know if I find one. (In the meantime I did a very quick skim of the NPRM and the only overarching suggestion that maybe California shouldn't have its own program that I came across was in footnote 551--

This proposed action does not address whether the statutory interpretations and their policy consequences laid out in the proposal may have implications for past waivers granted to California for other standards besides its GHG and ZEV standards. EPA proposes to take this action in the context of this joint rulemaking with NHTSA, and the California standards identified herein are the focus of EPA's proposal. As circumstances require and resources permit, EPA may in future actions consider whether this proposal, if finalized, makes it appropriate or necessary to revisit past grants of other waivers beyond those granted with respect to California's GHG and ZEV program.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 7/18/2019 8:15:33 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Zenick, Elliott [Zenick.Elliott@epa.gov]
Subject: FW: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion
Attachments: CEI CAFE Comments Final_0.pdf; CARB Detailed Comments10-26-2018.pdf; CBD-NRDC - EDF et al.pdf; California and other State AG detailed comments.pdf; Alliance Comments.pdf

Just FYI last week I asked Winnie to send me the comments on CA waiver and she did not send me any of this. Instead of sending me the relevant information which she had gathered the week before together with a high level summary, she sent me an email from last November where I had sent her the comments I had, most of which were not on CA waiver.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Srinivasan, Gautam
Sent: Thursday, July 18, 2019 3:14 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred
Sent: Friday, June 21, 2019 12:40 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Fw: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

Boss,

this is a one page summary that should give you a flavor for what we heard at proposal.

From: Dickinson, David
Sent: Tuesday, February 26, 2019 5:39 PM
To: Okoye, Winifred
Subject: SAFE NPRM Public Comments/CA Waiver (209 of CAA) and EPCA preemption - background for March 7 discussion

Winnie –

1. The SAFE NPRM - <https://www.govinfo.gov/content/pkg/FR-2018-08-24/pdf/2018-16820.pdf>
 - Page 42999 – in summary section spells out a proposal to revoke the 2013 waiver that EPA granted – for ZEV and GHG. It doesn't specify for what model years but later in NPRM the 2021-2025 model years are noted. The summary only points (somewhat indirectly) to the 2nd waiver criteria in 209(b) – “need for such State standards to meet compelling and extraordinary conditions – and notes that an attempt to address a global issue thru 209, which was designed to address smog or local/regional air quality problems is inappropriate under the criteria. This page also summarizes the EPCA preemption argument that CA's ZEV and GHG standards are related to fuel economy and therefore conflicts directly and indirectly with EPCA.
 - 43210 – EPCA preemption discussion in context of what state standards NHTSA must take into consideration when setting CAFÉ.
 - 43232 – 43253; Section VI “Preemption of State and Local Laws” covers EPCA and CAA preemption issues. In brief the NPRM proposes to revoke the CAA waiver based on the 2nd and 3rd criteria (no need for the standards, the standards aren't consistent with 202(a) in terms of feasibility and cost, respectively). It also attempts to propose to revoke on the 1st waiver criteria (CARB's standards not as protective, in the aggregate, as federal standards) based on the idea that if CARB's ZEV and GHG standards are preempted by EPCA then by definition they can't get a CAA waiver or that CARB's standards can't be as protective.
 - Section 177 states – the NPRM notes EPCA preemption applying to states that have adopted CARB's ZEV and GHG standards, and that under the terms/title of section 177 states may only adopt standards aimed to address NAAQS/criteria pollutants and therefor ZEV and GHG can't be adopted under 177,

2. CARB's detailed comments – attached. The table of contents in the comments provides a good guide of the issues presented in the NPRM with respect to EPCA and CAA preemption. (It is also a good guide on the issues related to the federal rulemaking for GHG and CAFÉ levels).
 - Section III – pages 23-67 give an overview of the role played by California since 1967 up to the Advanced Clean Car program (this is the regulation that includes GHG, ZEV, and LEV III).
 - Section VII – pages 282-308 gives an overview of the public health impacts (including NAAQS/SIP impacts) from revoking ZEV and GHG regulations in CA.
 - Section X – pages 336-387 provides arguments on the CA waiver revocation – including whether EPA has the threshold authority to reconsider a waiver that is an adjudication, and the authority to retroactively apply a new interpretation of the criteria in section 209 and a new application of the facts therein, along with arguments on the 2nd and 3rd waiver criteria.
 - Section XI = pages 388-408 provides arguments on the EPCA preemption issue, including whether NHTSA has the authority to issue interpretations and regulations that preempt CA's standards. Also discusses the criteria pollutant and public health purposes of ZEV and GHG and how not related to fuel economy.

3. Envirosearch – CBD/EDF/NRDC/Sierra Club, etc – attached, again the table of contents is helpful.

- Pages 67-166 – a variety of arguments against CAA waiver revocation and against EPCA preemption

4. State AGs -

- Pages 109-135 – discusses inappropriateness to revoke CA waiver, EPCA preemption, and section 177 issues

5. Auto Alliance

- Pages 175-181 goes into history of EPCA preemption agreement on national program
- If national/state program can't be achieved then NHTSA should assert EPCA preemption for GHG and ZEV
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6. Global Automakers

- Tracking down their detailed comments

7. Competitive Enterprise Institute

- Pages 9- 21 EPCA preemption and that existing court decisions are bad law, dismisses process associated with previous national program rulemaking
- Pages 21-25 EPA should withdraw waiver on all grounds asserted in the NPRM
- Pages 25-26 section 177 states don't have authority for GHG and ZEV standards
- Additional discussion of 2nd waiver prong history

David Dickinson
OTAQ/Attorney-Advisor

Message

From: Schwab.Justin@epa.gov [Schwab.Justin@epa.gov]
Sent: 9/17/2019 11:44:14 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Fwd: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0917 REDLINE.docx; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 17, 2019 at 7:31:02 PM EDT
To: "Idsal, Anne" <idsal.anne@epa.gov>, "Woods, Clint" <woods.Clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Abboud, Michael" <abboud.michael@epa.gov>
Cc: "Nickerson, William" <Nickerson.William@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>, "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Schwab.Justin@epa.gov [Schwab.Justin@epa.gov]
Sent: 8/29/2019 10:24:33 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: Revised/New and Improved Draft

Thank you very much for your good, hard and ongoing work on this. Please continue with revisions/review/research/(RTC, if there's more we can do there at the moment) to the extent you feel that there is more to do and that you can meaningfully continue given the current direction and feedback already provided.

Matt, Anne, and I plan to speak to DOT/NHTSA management this afternoon to address some outstanding issues and also to hopefully discuss timing/logistics. I will let you and Gautam know as soon as I am able what the outcome of that discussion is.

Sent from my iPhone

On Aug 29, 2019, at 1:14 AM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Good morning Justin,

Please find attached a new and hopefully, much improved draft of the withdrawal notice, (still in redline) given that it addresses your feedback from yesterday afternoon and also comments from Justice during the inter agency meeting. (

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

I have also attached pertinent comments from Global on the SAFE proposal, given that it is mentioned in the discussions on the 3rd waiver prong.

I am also reviewing auto industry comments to see if they made comments indicating that California's enforcement procedures for GHG/ ZEV are inconsistent with sec. 202(a).

Thanks

<SAFE comparewno.docx>

<GlobalEPA-HQ-OAR-2018-0283-5704-A1.pdf>

Message

From: Schwab.Justin@epa.gov [Schwab.Justin@epa.gov]
Sent: 8/16/2019 11:49:41 AM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: waiver

Ok.

Sent from my iPhone

On Aug 16, 2019, at 7:35 AM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

That would probably help, if you can withhold judgment.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

On Aug 16, 2019, at 6:41 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Ok - if I just accept all changes and take a look will that help me prepare for our discussion this afternoon, or do you think we're better off just discussing it?

Sent from my iPhone

On Aug 15, 2019, at 10:25 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

Honestly, I am not sure how helpful it is to send this to you. Not that I think it is not good, but the attached doc is a redline/strikeout hurricane. There is still a fair amount of work to be done to add arguments & responses to DOJ suggestions. At tomorrow's meeting, we should talk about **Ex. 5 Deliberative Process (DP)** and other more minor DOJ points. Work in progress. We'll get there.

I am heading to bed now.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, August 15, 2019 6:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: waiver

Thanks Boss,
 The attached is in response to your comments and edits, which were quite helpful.

I plan on dropping off materials for our discussions before I depart this evening just in case.

I'll let you know where I will be tomorrow by tomorrow morning.
Thanks.

From: Srinivasan, Gautam

Sent: Thursday, August 15, 2019 7:31 AM

To: Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: waiver

Hi Winnie- Thank you for your work on this. I am sorry that the process can't be better. I've included some comments in the attached. This document is a "compare" I ran of the version we sent to OMB and the version you sent me. All the redline should be text you added. The document made all comments anonymous, so I tried to include a "From GS" in all the comment bubbles I added and highlighted text I inserted. I didn't highlight deletions because all deletions should be from me. I hope it relatively clear who did what.

I haven't been able to look at the (b)(1)(B) discussion much but it

Ex. 5 Attorney Client (AC)

address everything from DOJ. From your draft email to Justin, it also sounds like you'd like to have discussion on the (b)(1)(B) argument. Justin is available to meet on Friday. Will you be in?

I will find time for us to talk this morning/early afternoon.

<SAFE compare.docx>

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 8/23/2019 12:42:20 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Fwd: SAFE California redline draft

I have not been able to spend much time at all on this this week. My apologies. It has been busier than usual, probably partly because EZ is gone. I will work on this over the weekend as well.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

Begin forwarded message:

From: "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Date: August 22, 2019 at 11:02:29 PM EDT
To: "Schwab, Justin" <Schwab.Justin@epa.gov>
Cc: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Subject: SAFE California redline draft

Good evening Justin,

As requested, the attached is a redline draft that addresses areas that fall within ARLO's responsibility and also some of the issues raised by DOJ during last Friday's interagency meeting. But, please note that this is still a work in progress and does not for instance address EPCA preemption as of yet. It does however, include sections on the agency's final legal construct of 209(b)(1)(i.e., whether EPA has the authority to revoke a prior waiver), 209(b)(1)(B)(along the lines of our discussions earlier today on standards that California needs to meet "compelling and extraordinary conditions") and a section on the third waiver criterion, including final interpretation of 209(b)(1)(C).

Ex. 5 AC/DP

Another thing to bear in mind is that we have not received any OTAQ redraft for the second waiver prong subsequent to Friday's interagency. It runs from page 31 through 45 of this draft and it might therefore be a good idea to skip review of that portion for now.

Finally, I have attached the 1984 FRN where the agency first discussed the second waiver prong as calling for whether California needs its own motor vehicle program to meet compelling and extraordinary conditions. The relevant discussion begins at 49 FR 18889. Please, let me know if you would like to see any comments on the SAFE proposal such as comments from the Global Association.

<SAFE comparewno.docx>

<49FedReg7.pdf>

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 9/18/2019 8:23:22 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]; Carrillo, Andrea [Carrillo.Andrea@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
Subject: Re: SAFE Part 1 version uploaded to OIRA
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; SAFE LEGAL MODULE (WAIVER) 08022019.docx

These are the two files; copying Karl Simon but I believe he already has these.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Wednesday, September 18, 2019 4:19 PM
To: Carrillo, Andrea <Carrillo.Andrea@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: SAFE Part 1 version uploaded to OIRA

Bill, to expand, we would like to see the file that was uploaded on August 2, and the file that was just uploaded earlier today, to make sure we know what both of those files look like. If Karl Simon/his people already have both of those files, that's great; if not, please also make sure that they receive them.

From: Carrillo, Andrea <Carrillo.Andrea@epa.gov>
Sent: Wednesday, September 18, 2019 4:18 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: SAFE Part 1 version uploaded to OIRA
Importance: High

Bill, could you please send us the version EPA uploaded to OIRA? Thanks!

Message

From: Simon, Karl [Simon.Karl@epa.gov]
Sent: 9/18/2019 5:17:03 PM
To: Woods, Clint [woods.clint@epa.gov]
CC: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: RE: Revised SAFE Rule
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx

I think we are good and have a plan. On an abundance of caution, I am attaching the 8/2 version that I have to make sure it matches your understanding as well.

From: Woods, Clint <woods.clint@epa.gov>
Sent: Wednesday, September 18, 2019 1:14 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Re: Revised SAFE Rule

OGC confirms it should be first (8/2) and last (today's version) for docket. Let me know if there is any other non-draft preamble items to discuss on this front. Thanks!

On Sep 18, 2019, at 11:42 AM, Woods, Clint <woods.clint@epa.gov> wrote:

Begin forwarded message:

From: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Date: September 18, 2019 at 11:36:37 AM EDT
To: "Bolen, Brittany" <bolen.brittany@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "schwab.justin@epa.gov" <schwab.justin@epa.gov>, "woods.clint@epa.gov" <woods.clint@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Subject: Revised SAFE Rule

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation

202-366-9038

<SAFE Vehicles Rule Part 1 0918 CLEAN.docx>

<SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx>

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 9/18/2019 3:37:08 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: See attached
Attachments: SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx

Sincerely,



Jonathan Morrison
Chief Counsel
Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
Office: 202-366-9511

Message

From: Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]
Sent: 9/18/2019 3:36:37 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]
CC: Schwab, Justin [Schwab.Justin@epa.gov]; Woods, Clint [woods.clint@epa.gov]; Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation

Ex. 6 Personal Privacy (PP)

Message

From: Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]
Sent: 9/17/2019 11:41:07 PM
To: Kymn, Christine J. EOP/OMB [Ex. 6 Personal Privacy (PP)]; 'Theroux, Richard P.' [Ex. 6 Personal Privacy (PP)]; Oreska, Matthew P. EOP/OMB [Ex. 6 Personal Privacy (PP)]; Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]
CC: Schwab, Justin [Schwab.Justin@epa.gov]; Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: Revised SAFE Part one
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

Good evening,

Attached please find the revised rule in redline and clean.

Thanks,

Tim

[Get Outlook for iOS](#)

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 9/17/2019 11:26:21 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: RE: Clean combo
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

Please see attached. Will send to Tim with the same instructions as last time.

From: Schwab, Justin [mailto:Schwab.Justin@epa.gov]
Sent: Tuesday, September 17, 2019 7:21 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: Clean combo

Please find attached.

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 9/17/2019 10:54:03 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
CC: Woods, Clint [woods.clint@epa.gov]
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL RE: final for true-up
Attachments: Edits to FINAL EPA MASTER 09172016 PM SAFE STEP ONE.docx

From: Schwab, Justin [mailto:Schwab.Justin@epa.gov]
Sent: Tuesday, September 17, 2019 4:43 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Cc: Woods, Clint <woods.clint@epa.gov>
Subject: final for true-up

Message

From: Mullins, Timothy (OST) [Timothy.Mullins@dot.gov]
Sent: 9/16/2019 1:07:20 PM
To: 'Theroux, Richard P.' [Ex. 6 Personal Privacy (PP)]; Kymn, Christine J. EOP/OMB
 [Ex. 6 Personal Privacy (PP)]; Hageman, Sharon E. EOP/OMB [Ex. 6 Personal Privacy (PP)]; Oreska, Matthew P. EOP/OMB [Ex. 6 Personal Privacy (PP)]
CC: Schwab, Justin [Schwab.Justin@epa.gov]; Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: Combined SAFE Rule Documents
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx; SAFE Part 1 Redline from 8.30 to 9.15 with redline for move.docx

Good morning,

We regret any confusion the prior versions from last week may have caused interagency reviewers. We had sent them as early as possible because we knew that there was interest in seeing the revised substantive discussions, but understand that led to questions about which discussion in which document was current.

We have attached several versions that we hope will make clear where the current document is. The primary intent of these documents is to show the changes to the current draft since the last document sent to OMB on August 30. There are two wrinkles here: first, the decision to move the EPCA section first makes a pure redline not very useful, as all you really see is the moved text, not actual changes to the text; and second, the agencies have made some changes to the combined document over the weekend.

To that end, we have attached 4 different versions, which we think will be helpful for reviewers with different levels of familiarity with the document:

- A purely "CLEAN" version of the latest draft
- A pure redline between the 8.30 draft and the latest 9.15 draft ("SAFE Part 1 Redline from 8.30 to 9.15 with redline for move"), that shows the reorganization and is thus filled with "green" text
- A modified redline ("REDLINED FROM 830") that accepts the move but shows all other changes (which we think is the best version of the document, though we note it was done manually, so may not be perfect)
- A redline ("REDLINE FROM COMBINED 912 913") that only shows changes between a version that combined the drafts sent Thursday and Friday with the 9.15 draft (which will show you all the extent of the changes over the weekend).

We are happy to answer any questions at 10 this morning.

Thanks,
 Tim

Timothy J. Mullins
 Senior Attorney
 Office of the General Counsel, Office of Regulation (C-50)
 U.S. Department of Transportation
 202-366-9038

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 9/16/2019 2:01:26 AM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: RE: SAFE - final tweaks tonight for integration
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx

From: Schwab, Justin [mailto:Schwab.Justin@epa.gov]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/15/2019 6:32:46 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

So we should comment on this version and not the sharepoint version, yes?

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 12:56 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE step one - clean and redline with bubbles

Attached is additional redline from the "clean" snapshot. Anyone who hasn't reviewed yet should use this version rather than last night's "clean."

Morrison and I have been through the document and, once he inputs the redline that I'm attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as "POST-0914 SNAPSHOT CHANGES."

See below for my explanation of the path forward. In brief, I'm sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/9/2019 4:45:30 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: FW: SAFE Preemption Waiver 8.30.2019 otaq edits
Attachments: SAFE Preemption Waiver 8.30.2019 ks edits.docx

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Thursday, September 5, 2019 9:53 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Dickinson, David <Dickinson.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: SAFE Preemption Waiver 8.30.2019 otaq edits

OGC,

Attached are our edits to the combined epca/waiver document. Not that we are still doing some internal review so one or two may change a bit, but I think this is in pretty good shape for you all to review and consider. I also recognize that we are a version or two behind since folks in your shop keep putting out new drafts so these comments may or may not line up exactly with the current working version. Let David or I know if you have any questions. thanks

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/5/2019 5:49:45 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)
Attachments: SAFE Preemption Waiver 8.30.2019_redline comments.docx

Additional comments. On a quick skim, I did not see anything on the EPA piece. There is a call tomorrow on these additional comments, but if there is nothing for us in the attached, maybe we'll be able to take a pass.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
 Office of Information and Regulatory Affairs
 Office of Management and Budget

Ex. 6 Personal Privacy (PP)

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 8/29/2019 10:53:34 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL - DO NOT CITE OR RELEASE
Attachments: 82919.docx

Please see attached

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 8/31/2019 5:21:26 AM
To: Marchesseault, Analiese (OST) [Analiese.Marchesseault@dot.gov]
CC: Owens, James (OST) [James.Owens@dot.gov]; Schwab, Justin [Schwab.Justin@epa.gov]
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: SAFE Preemption Waiver 8.30.2019.docx

Hi Analiese,

Please find attached for OIRA review. Thanks!

Message

From: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Sent: 8/31/2019 4:44:57 AM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: RE:
Attachments: 08302019.docx

From: Schwab, Justin [mailto:Schwab.Justin@epa.gov]
Sent: Friday, August 30, 2019 11:08 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject:

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/29/2019 10:24:33 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: Revised/New and Improved Draft

Thank you very much for your good, hard and ongoing work on this. Please continue with revisions/review/research/(RTC, if there's more we can do there at the moment) to the extent you feel that there is more to do and that you can meaningfully continue given the current direction and feedback already provided.

Matt, Anne, and I plan to speak to DOT/NHTSA management this afternoon to address some outstanding issues and also to hopefully discuss timing/logistics. I will let you and Gautam know as soon as I am able what the outcome of that discussion is.

Sent from my iPhone

On Aug 29, 2019, at 1:14 AM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Good morning Justin,

Please find attached a new and hopefully, much improved draft of the withdrawal notice, (still in redline) given that it addresses your feedback from yesterday afternoon and also comments from Justice during the inter agency meeting. (specifically, on need for textual support on our authority to revoke/reconsider and the 2nd waiver prong).

I have also attached pertinent comments from Global on the SAFE proposal, given that it is mentioned in the discussions on the 3rd waiver prong.

I am also reviewing auto industry comments to see if they made comments indicating that California's enforcement procedures for GHG/ ZEV are inconsistent with sec. 202(a).

Thanks

<SAFE comparewno.docx>

<GlobalEPA-HQ-OAR-2018-0283-5704-A1.pdf>

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/2/2019 6:11:25 PM
To: Owens, James (OST) [James.Owens@dot.gov]; Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
CC: Brightbill, Jonathan (ENRD) [Jonathan.Brightbill@usdoj.gov]
Subject: ATTORNEY CLIENT - DRAFT - DELIBERATIVE
Attachments: 08022019.docx

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/2/2019 6:10:35 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Zenick, Elliott [Zenick.Elliott@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: SAFE waiver module as sent to OP
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx

Please find attached. Thank you for all your work on this.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/2/2019 5:16:58 PM
To: Orlin, David [Orlin.David@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: CA waiver writeup

Thank you!

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, August 2, 2019 12:35 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: CA waiver writeup

Justin—

Here are further cleanup edits from Winnie.

Thanks, Winnie!

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 02, 2019 12:23 PM
To: Orlin, David <Orlin.David@epa.gov>
Subject: Re: CA waiver writeup

here it is. I still left highlighted text to make it easy to find requested fixes.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, August 2, 2019 10:45:46 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: CA waiver writeup

Winnie—

I have to turn to other parts of the SAFE preamble. Can you address Justin's request below as best you can by noon or 1?

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 02, 2019 10:37 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Thank you very much.

Please fill in the various FR cites, etc., that are highlighted; there's one bubble that didn't have a response where I noted that quotations in a footnote need to be more fully cited, quotation marks balanced, etc.

If this can be done by noon, that would be best. In any event, please do what of this you can before 1 PM. After that point I will need to shift to my own pens-down finalization mode.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Friday, August 2, 2019 10:26 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Justin,

I've consulted with Winnie and responded to your comment bubbles in the attached version of the redline.

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 02, 2019 12:56 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Please find attached a redline (with bubbles) and a clean version.

I have some points that will need revision Friday morning (indicated in the bubbles) – mostly asking to confirm cites/quotes. Please turn these around as quickly as possible.

I have also provided to Matt L. and to David Harlow. My goal is to pass this on to OAR IO by early Friday afternoon.

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, August 1, 2019 6:08 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Justin,

Attached is a version containing both what I already sent you and OTAQ's writeup on prong 2 of the waiver criteria (the first 15 pages should be identical to what you have, except for the added heading on p.1).

I have not looked at their draft, except for purpose of splicing the two documents together in a way that seemed reasonable. OTAQ asked me to emphasize that this is a first draft, and one with very limited management review—they are hoping to engage with Sarah and Anne shortly and their hope is that this version would be not be sent out for interagency review before they have a chance to have more management engagement (and maybe more time to polish it).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Thursday, August 01, 2019 4:17 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Re: CA waiver writeup

Thank you. I look forward to reviewing this and the next version.

Please advise me of the availability of each team member tomorrow in case we have follow up questions or need additional drafting/revision.

Sent from my iPhone

On Aug 1, 2019, at 3:45 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Justin,

Ex. 5 AC/DP

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 Attorney Work Product (AWP)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

<ACCwithdrawal authority 8-1.docx>

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/16/2019 11:49:42 AM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: Re: waiver

Ok.

Sent from my iPhone

On Aug 16, 2019, at 7:35 AM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

That would probably help, if you can withhold judgment.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

On Aug 16, 2019, at 6:41 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Ok - if I just accept all changes and take a look will that help me prepare for our discussion this afternoon, or do you think we're better off just discussing it?

Sent from my iPhone

On Aug 15, 2019, at 10:25 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

Honestly, I am not sure how helpful it is to send this to you. Not that I think it is not good, but the attached doc is a redline/strikeout hurricane. There is still a fair amount of work to be done to add arguments & responses to DOJ suggestions. At tomorrow's meeting, we should talk about **Ex. 5 Deliberative Process (DP)** **Ex. 5 Deliberative Process (DP)** other more minor DOJ points. Work in progress. We'll get there.

I am heading to bed now.

++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Thursday, August 15, 2019 6:30 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: waiver

Thanks Boss,
 The attached is in response to your comments and edits, which were quite helpful.

I plan on dropping off materials for our discussions before I depart this evening just in case.

I'll let you know where I will be tomorrow by tomorrow morning.
Thanks.

From: Srinivasan, Gautam

Sent: Thursday, August 15, 2019 7:31 AM

To: Okoye, Winifred <Okoye.Winifred@epa.gov>

Subject: waiver

Hi Winnie- Thank you for your work on this. I am sorry that the process can't be better. I've included some comments in the attached. This document is a "compare" I ran of the version we sent to OMB and the version you sent me. All the redline should be text you added. The document made all comments anonymous, so I tried to include a "From GS" in all the comment bubbles I added and highlighted text I inserted. I didn't highlight deletions because all deletions should be from me. I hope it relatively clear who did what.

I haven't been able to look at the (b)(1)(B) discussion much but it

Ex. 5 Attorney Client (AC)

address everything from DOJ. From your draft email to Justin, it also sounds like you'd like to have discussion on the (b)(1)(B) argument. Justin is available to meet on Friday. Will you be in?

I will find time for us to talk this morning/early afternoon.

<SAFE compare.docx>

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/1/2019 10:35:40 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: SAFE
Attachments: EDIT ACCwithdrawal 8-1 (authority+criteria).docx

Please find attached. I will be reviewing tonight, have not reviewed yet. I will copy you on the version I forward on to OAR IO and Brittany tomorrow. If you have any feedback on this, please let me know.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/12/2019 10:15:55 PM
To: Orlin, David [Orlin.David@epa.gov]; Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: SAFE FR - Preemption.docx

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, August 12, 2019 6:12 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Please see attached.

Sincerely,



Jonathan Morrison
Chief Counsel
Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
Office: 202-366-9511

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 11:44:16 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Fwd: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0917 REDLINE.docx; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 17, 2019 at 7:31:02 PM EDT
To: "Idsal, Anne" <idsal.anne@epa.gov>, "Woods, Clint" <woods.Clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Abboud, Michael" <abboud.michael@epa.gov>
Cc: "Nickerson, William" <Nickerson.William@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>, "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 11:40:50 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]
CC: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: FINAL STEP ONE CLEAN AND REDLINE
Attachments: SAFE Vehicles Rule Part 1 0917 CLEAN.docx; SAFE Vehicles Rule Part 1 0917 REDLINE.docx

FYI and please see attached. This is now at OP (and with others, see below). Our understanding of next steps is set forth below. Thanks to all for their amazing individual work and teamwork on this.

From: Schwab, Justin
Sent: Tuesday, September 17, 2019 7:31 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>
Cc: Nickerson, William <Nickerson.William@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>; Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Subject: FINAL STEP ONE CLEAN AND REDLINE

Please find attached. NHTSA is responsible for sending, through Tim Mullen, to OIRA this evening.

This version contains redlined changes compared to clean version transmitted to OIRA this past Monday morning.

We believe this version resolved all OIRA / DOJ comments and will facilitate closing this action out late today/early tomorrow.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 11:20:36 PM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: Clean combo
Attachments: ALL EPA AND NHTSA CHANGES CLEAN 09172019 PM SAFE STEP ONE.docx

Please find attached.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 8:42:57 PM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
CC: Woods, Clint [woods.Clint@epa.gov]
Subject: final for true-up
Attachments: FINAL EPA MASTER 09172016 PM SAFE STEP ONE.docx

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/17/2019 1:24:56 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Smith, Kristi [Smith.Kristi@epa.gov]
CC: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]; Dubey, Susmita [dubey.susmita@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: RE: urgent transportation conformity/general conformity question

Thank you.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Tuesday, September 17, 2019 9:24 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Re: urgent transportation conformity/general conformity question

Ex. 5 AC/DP

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 17, 2019 7:10 AM
To: Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: Re: urgent transportation conformity/general conformity question

Circling back on this - Winnie, can you confirm that **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

On Sep 12, 2019, at 9:45 AM, Smith, Kristi <Smith.Kristi@epa.gov> wrote:

Ex. 5 AC/DP

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

On Sep 12, 2019, at 9:30 AM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

Ex. 5 AC/DP

++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Thursday, September 12, 2019 9:24 AM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: urgent transportation conformity/general conformity question

(+ W.O.)

Ex. 5 AC/DP

From: Smith, Kristi <Smith.Kristi@epa.gov>
Sent: Tuesday, September 10, 2019 11:23 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: urgent transportation conformity/general conformity question

Ex. 5 AC/DP

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative,

attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 09, 2019 8:39 PM
To: Smith, Kristi <Smith.Kristi@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: urgent transportation conformity/general conformity question
Importance: High

(copying David O.).

Please do ask OTAQ (and perhaps ask Winnie if you think she might know as well).

This arises from a question NHTSA asked in re: our joint action with them on the SAFE rule and accompanying proposal to withdraw aspects of a previously granted waiver of CAA 209 preemption for California's state vehicle emissions program.

My reaction was that I thought **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

From: Smith, Kristi <Smith.Kristi@epa.gov>
Sent: Monday, September 9, 2019 6:21 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: urgent transportation conformity/general conformity question

Ex. 5 Attorney Client (AC)

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: Smith, Kristi
Sent: Monday, September 09, 2019 6:07 PM
To: Schwab, Justin <schwab.justin@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: urgent transportation conformity/general conformity question

Justin –

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Please let me know if you need additional information.

- Kristi

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA, Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Monday, September 09, 2019 4:21 PM

To: Dubey, Susmita <dubey.susmita@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Subject: urgent transportation conformity/general conformity question

Importance: High

Ex. 5 Attorney Client (AC)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/16/2019 6:23:55 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]
Attachments: WORKING EPA MASTER 09162016 PM SAFE STEP ONE.docx

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/16/2019 3:45:47 PM
To: Woods, Clint [woods.Clint@epa.gov]; Harlow, David [harlow.david@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Gautam Srinivasan [Srinivasan.Gautam@epa.gov] [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/16/2019 2:25:07 AM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: SAFE - final tweaks tonight for integration
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/16/2019 12:41:10 AM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: SAFE - final tweaks tonight for integration
Attachments: FOR TRANSMISSION 0830 PM EVEN MORE TWEAKS EVENING REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 6/20/2019 6:36:14 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Mutz, John (Fletcher) [mutz.john@epa.gov]
Subject: for SAFE tomorrow
Attachments: EDIT ACCwithdrawalonepager.docx; SAFE PROPOSAL 08242018 83 FR 42986 2018-16820.pdf

Please put the word file and pages 242-268 of the PDF in Matt's folder for tonight.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 5:59:58 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: FW: tweaks
Attachments: MORE TWEAKS 2 PM REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

FYI, very minor tweaks on top of the “tweaks” redline. This should all be incorporated in the unitary document that JM will be constructing, and his people will be sending to OIRA, later today.

From: Schwab, Justin
Sent: Sunday, September 15, 2019 1:59 PM
To: 'Morrison, Jonathan (NHTSA)' <Jonathan.Morrison@dot.gov>
Subject: RE: tweaks

More tweaks (this accepts all the redline in “Tweaks”) – please implement these after the “tweaks” redline is implemented.

From: Schwab, Justin
Sent: Sunday, September 15, 2019 12:56 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: tweaks

Please find attached.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 5:59:15 PM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: RE: tweaks
Attachments: MORE TWEAKS 2 PM REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

More tweaks (this accepts all the redline in "Tweaks") – please implement these after the "tweaks" redline is implemented.

From: Schwab, Justin
Sent: Sunday, September 15, 2019 12:56 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: tweaks

Please find attached.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 5:00:42 PM
To: Schwab, Justin [schwab.justin@epa.gov]
Subject: tweaks PDF
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.pdf

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 4:56:11 PM
To: 'Gautam Srinivasan (Srinivasan.Gautam@epa.gov)' [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: RE: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Attached is additional redline from the “clean” snapshot. Anyone who hasn’t reviewed yet should use this version rather than last night’s “clean.”

Morrison and I have been through the document and, once he inputs the redline that I’m attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA’s most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I’m only including bubbles explaining changes to NHTSA’s text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 4:56:08 PM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Subject: tweaks
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

Please find attached.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 2:06:23 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: Waiver doc
Attachments: 09152019 10 AM PDF MY FINAL NOODLE 09152019 SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.pdf

You already have it - it's the "CLEAN SNAPSHOT" from last night around 9. Do you need in in PDF? I can send you my current "private" redline in PDF. Here it is attached, actually. But the problem is that the redline doesn't show up (I assume it just "accepts all.") If you know how to create a PDF that shows redline/bubbles, I'll do that too.

-----Original Message-----

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Sunday, September 15, 2019 10:01 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Waiver doc

Do you think you can send me a "screenshot" of the doc? I should be able to pull email while on the road, but I am not sure I can access sharepoint.

+++++

(202) 564-5647 (o)

(202) 564-5647 (o)
Ex. 6 Personal Privacy (PP)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/15/2019 1:30:46 AM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; SAFE STEP ONE SNAPSHOT INTERNAL REDLINE BUBBLES 09142019 PM.docx

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA’s most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I’m only including bubbles explaining changes to NHTSA’s text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Appointment

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/14/2019 3:06:15 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: FW: SAFE - Holding Time for Discussion on Comments
Location: 202-395-6392, 631-8708
Start: 9/17/2019 8:00:00 PM
End: 9/17/2019 9:00:00 PM
Show Time As: Tentative

-----Original Appointment-----

From: Hageman, Sharon E. EOP/OMB <[REDACTED]>
Sent: Friday, September 13, 2019 10:33:44 AM
To: Hageman, Sharon E. EOP/OMB; Srinivasan, Gautam; Harlow, David; Schwab, Justin; Bolen, Brittany; Woods, Clint; Idsal, Anne; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: FW: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: [REDACTED]

From: Hageman, Sharon E. EOP/OMB
Sent: Friday, September 13, 2019 11:37:03 PM UTC
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Nickerson, William; Miller, Wendy (ENRD); justin.smith@usdoj.gov
Subject: SAFE - Holding Time for Discussion on Comments
When: Tuesday, September 17, 2019 8:00 PM-9:00 PM.
Where: [REDACTED]

Hello all,
 Please hold this time for the agencies and OMB to give comments on the revised draft SAFE preemption final rule, if it is needed. Please forward to those in your agencies that should attend.
 Thanks,
 Sharon

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/14/2019 12:19:49 AM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: 091219.docx
Attachments: 091219.docx; ATT00001.txt

redline of nhtsa's parts, but III (our part) is newer in what I sent just now

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/14/2019 12:19:11 AM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: SAFE STEP ONE CLEAN DRAFT .docx
Attachments: SAFE STEP ONE CLEAN DRAFT .docx; ATT00001.txt

This has our part (III) as of about 3 PM. The other stuff doesn't reflect nhtsa's latest, I'll send that separately

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/13/2019 10:03:49 PM
To: Beach, Christopher [beach.christopher@epa.gov]
Subject: Redline of their parts
Attachments: 091219.docx; ATT00001.txt

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/13/2019 10:03:18 PM
To: Beach, Christopher [beach.christopher@epa.gov]
Subject: SAFE STEP ONE CLEAN DRAFT .docx
Attachments: SAFE STEP ONE CLEAN DRAFT .docx; ATT00001.txt

Redline of our part (III)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/13/2019 9:13:49 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: FW: Redline reflecting changes to NHTSA's piece
Attachments: 091219.docx

From: Schwab, Justin
Sent: Friday, September 13, 2019 10:08 AM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Redline reflecting changes to NHTSA's piece

Please find attached. I have not yet reviewed. I will circulate also to ARLO. Someone (not me, and ideally not Harlow or ALRO either) should merge these changes to NHTSA's material into the current sharepoint drive).

Please let me know whether OAR or OP can do so, or whether OGC/ARLO needs to instead.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Thursday, September 12, 2019 9:49 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: 091219

Sincerely,



Jonathan Morrison
Chief Counsel
Department of Transportation
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE., Washington, DC 20590
Office: 202-366-9511

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/30/2019 6:35:57 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: SAFE
Attachments: 82919.docx; MZL clean SCRUB 0830 PM SAFE waiver section for final 08302019.docx

New version of NHTSA's total (which contains our Aug. 2 piece), and your clean version of the current status of our passback, as discussed.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/30/2019 12:10:25 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE CA waiver with EPCA section

Thank you.

-----Original Message-----

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Friday, August 30, 2019 8:05 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

You can work with the new preemption section. I think you could scrub it in a half hour or so.

+++++
(202) 564-5647 (o)
(202) 695-6287 (c)

-----Original Message-----

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 6:22 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please let me know if you will be able to review and, if so, when you expect being able to provide any comments/edits. If you cannot do that, at least please provide a qualitative assessment of the new section and an estimate of how long I will need to review and revise it.

If you will not be able to do either, please let me know that as soon as possible.

-----Original Message-----

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 12:56 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE CA waiver with EPCA section

Good morning gentlemen:

Please see the attached which contains a new Section 2 on EPCA preemption. Please let me if it reflects your thinking (and instructions) on what it should address.
Thanks

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/4/2019 9:53:53 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: SAFE draft
Attachments: SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx

Please find attached. This is structurally revised from the last version I circulated. WO, GS and DO can explain further what the next steps are here.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/4/2019 7:39:30 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: SAFE Preemption Waiver 8.30.2019.docx; ATT00001.htm

From: Schwab, Justin
Sent: Saturday, August 31, 2019 12:59 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Fwd: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

As discussed, please find attached.

Sent from my iPhone

Begin forwarded message:

From: "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Date: August 31, 2019 at 1:21:26 AM EDT
To: "Marchesseault, Analiese (OST)" <Analiese.Marchesseault@dot.gov>
Cc: "Owens, James (OST)" <James.Owens@dot.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Hi Analiese,

Please find attached for OIRA review. Thanks!

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/4/2019 3:07:57 PM
To: Scott, Corey [scott.corey@epa.gov]; Hyman, Alana [Hyman.Alana@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
Subject: draft rule for this afternoon's SAFE briefing
Attachments: SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx

Please find attached.

It is 139 pages long.

Please print and put in its own three-ring binder.

The shorter paper I sent earlier this morning has, on the second page, an outline of this attached draft rule. We will walk AW through it in this afternoon's briefing.

(I will also bring 10 print copies of the 2-pager and 2 print copies of this attachment.)

Appointment

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/3/2019 7:32:29 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Subject: FW: Discussion on Draft SAFE Preemption Waiver Final Rule
Location: 202-395-6392, code 284-0544
Start: 9/4/2019 8:30:00 PM
End: 9/4/2019 9:30:00 PM
Show Time As: Tentative

-----Original Appointment-----

From: Hageman, Sharon E. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Tuesday, September 3, 2019 3:30 PM
To: Hageman, Sharon E. EOP/OMB; Bolen, Brittany; Schwab, Justin; Harlow, David; Srinivasan, Gautam; Mullins, Timothy (OST); Miller, Wendy (ENRD); Nickerson, William
Subject: FW: Discussion on Draft SAFE Preemption Waiver Final Rule
When: Wednesday, September 4, 2019 4:30 PM-5:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Ex. 6 Personal Privacy (PP)

-----Original Appointment-----

From: Hageman, Sharon E. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Tuesday, September 03, 2019 1:24 PM
To: Hageman, Sharon E. EOP/OMB; Mullins, Timothy (OST); Miller, Wendy (ENRD); Nickerson, William
Subject: Discussion on Draft SAFE Preemption Waiver Final Rule
When: Wednesday, September 04, 2019 4:30 PM-5:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Ex. 6 Personal Privacy (PP)

Call to discuss comments on the draft SAFE Preemption Waiver Final Rule.
Please forward to your agency contacts that should participate in the call.

Thanks,
Sharon

Sharon Hageman | Ex. 6 Personal Privacy (PP)

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/3/2019 4:24:00 PM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Gautam Srinivasan [Srinivasan.Gautam@epa.gov] [Srinivasan.Gautam@epa.gov]
Subject: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/31/2019 3:14:44 AM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) [Srinivasan.Gautam@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
Attachments: Waiver piece 08302019.docx

Importance: High

Please find attached. As circulated to our co-authors and with Matt and OAR IO.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/31/2019 3:08:01 AM
To: Morrison, Jonathan (NHTSA) [Jonathan.Morrison@dot.gov]
Attachments: 08302019.docx; 08302019a.docx

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 8/31/2019 12:40:52 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]; Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE CA waiver with EPCA section

They should send it as soon as possible and we will do our best to incorporate it into the process.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 7:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Just letting you know that OTAQ says they would "like to provide comment by Tuesday, morning if needed."

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 2:57:46 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please tell them that we need this as soon as possible. They should send whatever comments they may already have today.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 2:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good afternoon Justin,

this is a follow up to your question as to whether OAR intends to provide additional text. I did speak with David Dickinson, the staff person, and he indicated that they plan on providing additional text/edits and comments on the draft. He indicated it will most likely be next week.

From: Okoye, Winifred
Sent: Friday, August 30, 2019 12:56:10 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE CA waiver with EPCA section

Good morning gentlemen:

Please see the attached which contains a new Section 2 on EPCA preemption. Please let me if it reflects your thinking (and instructions) on what it should address.

Thanks

Message

From: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Sent: 9/4/2019 5:29:00 PM
To: Simon, Karl [Simon.Karl@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]
Subject: waiver
Attachments: SAFE Preemption Waiver 8.30.2019.docx

This is the version Justin provided us yesterday.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

Message

Sent: 9/18/2019 3:55:37 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Charmley, William [charmley.william@epa.gov]; Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Dickinson, David [Dickinson.David@epa.gov]; Moran, Robin [moran.robin@epa.gov]
Subject: FW: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx; ATT00002.htm

I hesitate to say this is the last version because that was supposed to be last night's set of documents, but I do think this is the last one. Chris, it appears that OGC is determining that only the 8/2 initial draft and this version will go into the docket. I believe you can now pull together the docket stuff per our discussion. Event/signature appears to be first thing tomorrow morning. Let me know if you have any questions.

From: Woods, Clint <woods.clint@epa.gov>
Sent: Wednesday, September 18, 2019 11:42 AM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: Fwd: Revised SAFE Rule

Begin forwarded message:

From: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Date: September 18, 2019 at 11:36:37 AM EDT
To: "'Bolen, Brittany'" <bolen.brittany@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "schwab.justin@epa.gov" <schwab.justin@epa.gov>, "woods.clint@epa.gov" <woods.clint@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Subject: Revised SAFE Rule

Good morning,

Attached is the revised SAFE rule, in redline and clean, which makes: (1) minor changes to the 12866 section at OIRA's request; and (2) a few non-substantive changes that correct quotations and fill in a footnote. Jonathan discussed these changes a moment ago with Justin and Clint.

OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation
202-366-9038

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 9/16/2019 5:11:22 PM
To: Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE - final tweaks tonight for integration

Begin forwarded message:

From: "Dickinson, David" <Dickinson.David@epa.gov>
Date: September 16, 2019 at 1:01:06 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

Karl –

Also, I think Lee Cook would be very interest in this development in terms of the public health and welfare angle.

David

From: Dickinson, David
Sent: Monday, September 16, 2019 1:00 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

Ex. 5 AC/DP

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Monday, September 16, 2019 9:08 AM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE - final tweaks tonight for integration

Good morning gentlemen-

See the attached. There was a flurry of activity this weekend so please see page 102 for instance. As always, please pass along edits and comments.
Thank you.

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 9/16/2019 4:37:40 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Cook, Leila [cook.leila@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; ATT00001.htm

Sarah,

The waiver piece is very fluid as you will see from the email chain below. I am annoyed but ok with David and I joining the call at 1:30 but since we are way behind the conversations taking place we will be mostly in listening mode as it appears they may be changing the theory of the argument re: prong 2. Depending on how this is being presented we may or may not be able to provide assistance but I can't tell you that yet given the uncertainty in the process this last couple of days.

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 16, 2019 at 12:17:50 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30

David Orlin
 (202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 11:45:47 AM EDT
To: "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 9/3/2019 10:59:32 PM
To: Dickinson, David [Dickinson.David@epa.gov]
Subject: Fwd: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx; ATT00001.htm

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 3, 2019 at 5:47:21 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>
Subject: FW: SAFE

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 03, 2019 12:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 9/3/2019 11:28:16 AM
To: Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]
Subject: Re: SAFE CA waiver with EPCA section

Thanks Winnie. I had not heard that legal advice given so directly. Last I had been in a discussion with them, it seemed like there was a policy choice to be made here as well.

On Aug 31, 2019, at 1:32 AM, Okoye, Winifred <Okoye.Winifred@epa.gov> wrote:

Ex. 5 AC/DP

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Friday, August 30, 2019 4:43:11 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Winnie –

OTAQ would like to be able to fully read the document/most recent draft you provided yesterday and provide comment to you Tuesday, morning if needed.

Ex. 5 AC/DP

Ex. 5 AC/DP

Thank you, and more soon. I know there are some basic citation issues but don't have all of them handy,

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 3:35 PM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE CA waiver with EPCA section

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 2:57 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please tell them that we need this as soon as possible. They should send whatever comments they may already have today.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 2:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good afternoon Justin,

this is a follow up to your question as to whether OAR intends to provide additional text. I did speak with David Dickinson, the staff person, and he indicated that they plan on providing additional text/edits and comments on the draft. He indicated it will most likely be next week.

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 8/27/2019 8:39:09 PM
To: Charmley, William [charmley.william@epa.gov]
Subject: Fwd: SAFE California redline draft
Attachments: SAFE comparewno.docx; ATT00001.htm; 49FedReg7.pdf; ATT00002.htm

Begin forwarded message:

From: "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Date: August 26, 2019 at 1:30:17 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>
Subject: Fw: SAFE California redline draft

Attachments this time.
(sorry to clog up your email boxes)

From: Okoye, Winifred
Sent: Thursday, August 22, 2019 11:02 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE California redline draft

Good evening Justin,

As requested, the attached is a redline draft that addresses areas that fall within ARLO's responsibility and also some of the issues raised by DOJ during last Friday's interagency meeting. But, please note that this is still a work in progress and does not for instance address EPCA preemption as of yet. It does however, include sections on the agency's final legal construct of 209(b)(1)(i.e., whether EPA has the authority to revoke a prior waiver), 209(b)(1)(B)(along the lines of our discussions earlier today on standards that California needs to meet "compelling and extraordinary conditions") and a section on the third waiver criterion, including final interpretation of 209(b)(1)(C).

Ex. 5 AC/DP

Ex. 5 AC/DP

Another thing to bear in mind is that we have not received any OTAQ redraft for the second waiver prong subsequent to Friday's interagency. It runs from page 31 through 45 of this draft and it might therefore be a good idea to skip review of that portion for now.

Finally, I have attached the 1984 FRN where the agency first discussed the second waiver prong as calling for whether California needs its own motor vehicle program to meet compelling and extraordinary conditions. The relevant discussion begins at 49 FR 18889. Please, let me know if you would like to see any comments on the SAFE proposal such as comments from the Global Association.

Message

From: Simon.Karl@epa.gov [Simon.Karl@epa.gov]
Sent: 8/16/2019 2:36:15 AM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Fwd: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: image001.png; ATT00001.htm; SAFE FR - Preemption.docx; ATT00002.htm

Per our discussion. I probably won't get at this until Sunday night so will let you my impression Monday

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: August 12, 2019 at 6:24:04 PM EDT
To: "Okoye, Winifred" <Okoye.Winifred@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Simon, Karl" <Simon.Karl@epa.gov>, "Cook, Leila" <cook.leila@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Since DOJ commented during the call last week that it seemed the NHTSA preemption writeup was insufficiently coordinated with EPA's waiver withdrawal discussion, I asked Justin to get us a copy of NHTSA's upload (see attached).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, August 12, 2019 6:16 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, August 12, 2019 6:12 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Please see attached.

Sincerely,

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 9/18/2019 3:42:25 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: Revised SAFE Rule
Attachments: SAFE Vehicles Rule Part 1 0918 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0918 REDLINE 1125am.docx; ATT00002.htm

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From: "Mullins, Timothy (OST)" <Timothy.Mullins@dot.gov>
Date: September 18, 2019 at 11:36:37 AM EDT
To: "Bolen, Brittany" <bolen.brittany@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "schwab.justin@epa.gov" <schwab.justin@epa.gov>, "woods.clint@epa.gov" <woods.clint@epa.gov>, "Morrison, Jonathan (NHTSA)" <Jonathan.Morrison@dot.gov>
Subject: Revised SAFE Rule

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OIRA asked that we provide the documents in email first before submitting them in ROCIS. Unless anyone has an objection, I can do that momentarily and copy Bill (or anyone else at EPA as needed).

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation
202-366-9038

Message

From: Woods, Clint [woods.clint@epa.gov]
Sent: 9/16/2019 5:33:55 PM
To: Cook, Leila [cook.leila@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; ATT00001.htm

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 11:45:47 AM EDT
To: "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: **SAFE step one: draft for this afternoon's discussion at 1:30**

Please find attached. This has redline to reflect things that are new since the joint draft that went by email from DOT to OIRA last night.

This is an internal draft for discussion at this point to make sure we nail down the last remaining items/questions.

If people have time before 1:30 to familiarize themselves with the bubbles and the redline, and to prepare suggestions for how to address, that would be good.

One item (See bubbles at 77, 83) which would be good for ARLO and David D. to tackle in tandem:

Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 5:33:30 PM
To: Cook, Leila [cook.leila@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, September 16, 2019 11:46 AM
To: Woods, Clint <woods.clint@epa.gov>; Harlow, David <harlow.david@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: SAFE step one: draft for this afternoon's discussion at 1:30

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Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 4:17:50 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: SAFE step one: draft for this afternoon's discussion at 1:30
Attachments: FOR WORKING GROUP 1145 AM 09162019 INTERNAL, WORKING SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; ATT00001.htm

David Orlin
(202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 11:45:47 AM EDT
To: "Woods, Clint" <woods.clint@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Dominguez, Alexander" <dominguez.alexander@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
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Ex. 5 Attorney Client (AC)

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 1:21:06 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: OIRA TRANSMISSION FW: Combined SAFE Rule Documents
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; ATT00001.htm; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; ATT00002.htm; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx; ATT00003.htm; SAFE Part 1 Redline from 8.30 to 9.15 with redline for move.docx; ATT00004.htm

David Orlin
 (202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 16, 2019 at 9:20:34 AM EDT
To: "Bolen, Brittany" <bolen.brittany@epa.gov>
Cc: "Idsal, Anne" <idsal.anne@epa.gov>, "Harlow, David" <harlow.david@epa.gov>, "Woods, Clint" <woods.clint@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: OIRA TRANSMISSION FW: Combined SAFE Rule Documents

See below & attached – the 3 versions that I circulated internally last night have now gone from DOT to OIRA.

From: Mullins, Timothy (OST) <Timothy.Mullins@dot.gov>
Sent: Monday, September 16, 2019 9:07 AM
To: 'Theroux, Richard P.' <Richard_P._Theroux@omb.eop.gov>; Kymn, Christine J. EOP/OMB <Christine.J.Kymn@omb.eop.gov>; Hageman, Sharon E. EOP/OMB <Sharon.E.Hageman@omb.eop.gov>; Oreska, Matthew P. EOP/OMB <Matthew.P.Oreska@omb.eop.gov>
Cc: Schwab, Justin <Schwab.Justin@epa.gov>; Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: Combined SAFE Rule Documents

Good morning,

We regret any confusion the prior versions from last week may have caused interagency reviewers. We had sent them as early as possible because we knew that there was interest in seeing the revised substantive discussions, but understand that led to questions about which discussion in which document was current.

We have attached several versions that we hope will make clear where the current document is. The primary intent of these documents is to show the changes to the current draft since the last document sent to OMB on August 30. There are two wrinkles here: first, the decision to move the EPCA section first makes a pure redline not very useful, as all you really see is the moved text, not actual changes to the text; and second, the agencies have made some changes to the combined document over the weekend.

To that end, we have attached 4 different versions, which we think will be helpful for reviewers with different levels of familiarity with the document:

- <!--[if !supportLists]--><!--[endif]-->A purely “CLEAN” version of the latest draft
- <!--[if !supportLists]--><!--[endif]-->A pure redline between the 8.30 draft and the latest 9.15 draft (“SAFE Part 1 Redline from 8.30 to 9.15 with redline for move”), that shows the reorganization and is thus filled with “green” text
- <!--[if !supportLists]--><!--[endif]-->A modified redline (“REDLINED FROM 830”) that accepts the move but shows all other changes (which we think is the best version of the document, though we note it was done manually, so may not be perfect)
- <!--[if !supportLists]--><!--[endif]-->A redline (“REDLINE FROM COMBINED 912 913”) that only shows changes between a version that combined the drafts sent Thursday and Friday with the 9.15 draft (which will show you all the extent of the changes over the weekend).

We are happy to answer any questions at 10 this morning.

Thanks,
Tim

Timothy J. Mullins
Senior Attorney
Office of the General Counsel, Office of Regulation (C-50)
U.S. Department of Transportation
202-366-9038

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 2:29:51 AM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE - final tweaks tonight for integration
Attachments: SAFE Vehicles Rule Part 1 0915 CLEAN.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM COMBINED 912 913 drafts.docx; SAFE Vehicles Rule Part 1 0915 REDLINE FROM 830 draft.docx

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 10:25 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE - final tweaks tonight for integration

FYI, this is what I think DOT will be sending to OIRA later tonight or early tomorrow – clean joint rule and 2 redlines, one comparing to the versions from late last week and the other comparing to August 30.

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Sunday, September 15, 2019 10:01 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: SAFE - final tweaks tonight for integration

From: Schwab, Justin [<mailto:Schwab.Justin@epa.gov>]
Sent: Sunday, September 15, 2019 8:41 PM
To: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Subject: SAFE - final tweaks tonight for integration

Son of even more tweaks attached. When you generate total redline, please send to me, and then have me copied on email to OIRA. Let's send both a clean and a total redline.

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 1:56:34 AM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx; SAFE STEP ONE SNAPSHOT INTERNAL REDLINE BUBBLES 09142019 PM.docx

Here's an earlier email—suggesting all edits be flagged (why they didn't post a clean copy, or whether people are doing that, is beyond me).

We are hearing pens down could be tomorrow...

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Saturday, September 14, 2019 9:31 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I'm sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/3/2019 9:47:21 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 03, 2019 12:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 9/3/2019 5:53:39 PM
To: OTAQ Materials [OTAQMaterials@epa.gov]
CC: Charmley, William [charmley.william@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Olechiw, Michael [olechiw.michael@epa.gov]; Bolon, Kevin [Bolon.Kevin@epa.gov]; Lieske, Christopher [lieske.christopher@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]; Buchsbaum, Seth [buchsbaum.seth@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: For Sarah's Review: Draft Agenda for tomorrow's 1pm LD GHG BiWeekly update with AA Idsal
Attachments: Agenda_LD GHG BiWeekly with AA Idsal_Sept 4 2019.docx

Attached for Sarah's review is the agenda for tomorrow's 1pm briefing with Anne Idsal on Light-duty GHG biweekly update.

Thanks,
Robin

Robin Moran
Senior Policy Advisor
U.S. EPA, Office of Transportation and Air Quality
2000 Traverwood Dr.
Ann Arbor, MI 48105
(734) 214-4781

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/16/2019 1:55:16 AM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: FW: SAFE step one - clean and redline with bubbles
Attachments: TWEAKS REDLINE 09152019 1 PM SAFE STEP ONE SNAPSHOT CLEAN 09142019 PM.docx

FYI—I am just getting back into town but it looks like another draft went to OIRA today?

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Sunday, September 15, 2019 12:56 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: SAFE step one - clean and redline with bubbles

Attached is additional redline from the “clean” snapshot. Anyone who hasn’t reviewed yet should use this version rather than last night’s “clean.”

Morrison and I have been through the document and, once he inputs the redline that I’m attaching here, **we will have one unitary document that his staff will hopefully send to OIRA by mid-afternoon today.**

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:31 PM
To: Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: SAFE step one - clean and redline with bubbles

See attached & below – ARLO team should keep working in the Sharepoint for now but any changes from here on out should be marked as “POST-0914 SNAPSHOT CHANGES.”

See below for my explanation of the path forward. In brief, I’m sending these also to Morrison (with internally directed bubbles removed). He and I are going to true up our respective drafts tomorrow and produce a unitary draft for transmission to OIRA (late?) tomorrow.

From: Schwab, Justin
Sent: Saturday, September 14, 2019 9:29 PM
To: Idsal, Anne <idsal.anne@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>
Subject: SAFE step one - clean and redline with bubbles

Please find attached. The Sharepoint is still the master document, but this is a snapshot of the document as of around 9 this evening.

Two versions – one completely clean with no redline, bubbles, or highlights; the other with a redline. That redline is off the baseline of the 09/04 version created in advance of an AW briefing.

This should contain all of NHTSA's most recent version. Morrison and I went through this fairly extensively already today.

I am also going to send these to the ARLO team.

I am going to send Morrison these same documents except that in the non-clean version for Morrison I'm only including bubbles explaining changes to NHTSA's text and/or flagging items for potential higher-level (Idsal/Owens, Leopold/Bradbury) discussion.

Jon will create a full redline comparing his current version to this version. He and I will then go through that redline tomorrow to create one unitary joint document that can be sent to OIRA sometime tomorrow for circulation and interagency review/heading towards clearance.

Brittany, please let Bill Nickerson/whoever else needs to know that this is the plan (Rich T.? Rosario?).

Message

From: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Sent: 9/14/2019 12:27:40 AM
To: Charmley, William [charmley.william@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Burch, Julia [Burch.Julia@epa.gov]
CC: Orlin, David [Orlin.David@epa.gov]; Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Fwd: Latest draft of SAFE FRM
Attachments: SAFE STEP ONE CLEAN DRAFT .docx; ATT00001.htm

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: September 13, 2019 at 5:52:42 PM EDT
To: "Campbell, Ann" <Campbell.Ann@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Burch, Julia" <Burch.Julia@epa.gov>
Subject: Fwd: Latest draft of SAFE FRM

Begin forwarded message:

From: "Woods, Clint" <woods.clint@epa.gov>
Date: September 13, 2019 at 5:08:38 PM EDT
To: "Nickerson, William" <Nickerson.William@epa.gov>
Cc: "Schwab, Justin" <Schwab.Justin@epa.gov>, "Idsal, Anne" <idsal.anne@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>, "Harlow, David" <harlow.david@epa.gov>
Subject: Fwd: Latest draft of SAFE FRM

Bill,

Thanks so much for the help. Attached draft version for Rich contains updates to EPA's waiver sections, with the most recent non-structural line edits redlined. It does NOT contain recently-shared redline edits to NHTSA's sections.

Message

From: Dunham, Sarah [Dunham.Sarah@epa.gov]
Sent: 9/5/2019 9:02:23 PM
To: Simon, Karl [Simon.Karl@epa.gov]
Subject: Fwd: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)
Attachments: SAFE Preemption Waiver 8.30.2019_redline comments.docx; ATT00001.htm

Flag: Follow up

You hopefully already got this from OGC?

Begin forwarded message:

From: "Nickerson, William" <Nickerson.William@epa.gov>
Date: September 5, 2019 at 1:42:05 PM EDT
To: "Dunham, Sarah" <Dunham.Sarah@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

I'm not entirely sure who should be getting this. I also forwarded to Gautam. This appears just to be on preemption, as opposed to the actual standards.

From: Oreska, Matthew P. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

Ex. 6 Personal Privacy (PP)

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/4/2019 11:05:31 PM
To: Simon, Karl [Simon.Karl@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]; Cook, Leila [cook.leila@epa.gov]
Subject: Fwd: SAFE draft
Attachments: SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx; ATT00001.htm

Fyi— we had a call with OIRA and DOJ and got some comments which I expect we'll try to put into this version in the next couple of days.

David Orlin
(202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 4, 2019 at 5:53:53 PM EDT
To: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: **SAFE draft**

Please find attached. This is structurally revised from the last version I circulated. WO, GS and DO can explain further what the next steps are here.

Message

From: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Sent: 9/3/2019 11:52:27 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]; Charmley, William [charmley.william@epa.gov]; Simon, Karl [Simon.Karl@epa.gov]
CC: Burch, Julia [Burch.Julia@epa.gov]; Cook, Leila [cook.leila@epa.gov]; Orlin, David [Orlin.David@epa.gov]; Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: FW: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx

All—I am sending this to make sure we are all on the same page. I realize I'm several steps behind on this, so forgive me if that's the case.

Mary Manibusan, manager in OP, wrote in regards to the GHG waiver revocation/EPCA pre-emption action:

Our understanding is that SAFE will be split into two new RIN#s. For EPA, the waiver and preemption language will be uploaded under the new RIN#. To that end, could you please provide an title for the new RIN#.

The write-up that David sent around mentions, too, that the title of this action will need to be determined. This write-up makes clear that the final stringency standards will come in a later, separate action.

I wasn't sure who is in charge of this particular topic—Karl? Bill? Either Julia or I will need to get back to Mary in OP soon, so any thoughts would be appreciated.

We can discuss tomorrow but I wanted to loop folks in just so we are coordinating. Perhaps we can flag this in the meeting with Anne.

Thanks—Ben

From: Orlin, David

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 03, 2019 12:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Cook, Leila [cook.leila@epa.gov]
Sent: 9/3/2019 10:16:24 PM
To: Simon, Karl [Simon.Karl@epa.gov]
CC: Hengst, Benjamin [Hengst.Benjamin@epa.gov]
Subject: Fwd: SAFE
Attachments: SAFE Preemption Waiver 8.30.2019.docx; ATT00001.htm

For your evaluation.

Sent from my iPhone

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: September 3, 2019 at 5:49:23 PM EDT
To: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Cook, Leila" <cook.leila@epa.gov>
Subject: FW: SAFE

FYI—this version has both the NHTSA EPCA preemption writeup and the EPA waiver revocation writeup (but we're told the order of things may get switched around). If any descriptions of CAA authority in the EPCA discussion give you heartburn let me know (I haven't read it myself and not sure when I can)

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Tuesday, September 03, 2019 5:47 PM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: FW: SAFE

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Tuesday, September 03, 2019 12:24 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE

Please find attached. As discussed with GS and DO, there will be *structural* changes to this (DOT piece will go first; internal structural reordering of our piece), but I wanted you to see what we'll be working off.

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 8/1/2019 9:17:12 PM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
CC: Cook, Leila [cook.leila@epa.gov]
Subject: FW: CA waiver writeup
Attachments: 2ndwaiver prong OTAQ 8-01-19v2.docx

Sarah, FYI on where things stand. Looks like there will be an EPA-NHTSA political discussion (maybe just lawyers, checking on progress) about this today or tomorrow as well. Schedule still seems pretty haphazard but we are trying to keep our piece moving. Will fill you in on the latest when you are back in town. Thanks

From: Simon, Karl
Sent: Thursday, August 1, 2019 5:13 PM
To: Orlin, David <Orlin.David@epa.gov>; Cook, Leila <cook.leila@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: RE: CA waiver writeup

Thanks David. Here is our first draft of the discussion on the second prong. We are interested in your comments on it, recognizing that there are probably some holes to fill as well given the short drafting time. We have not run this through anyone outside of the three of us, so we will find some time with Sarah and Anne when they are back in the office to engage with them. Thus, there could be some additional modifications coming from us. In the interim, we will also take a look at the draft you sent along. We can talk next week.

Karl

From: Orlin, David
Sent: Thursday, August 1, 2019 3:59 PM
To: Cook, Leila <cook.leila@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Cc: Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: FW: CA waiver writeup

fyi

David Orlin
 U.S. EPA, Office of General Counsel
 (202) 564-1222

From: Orlin, David
Sent: Thursday, August 01, 2019 3:46 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Okoye, Winifred <Okoye.Winifred@epa.gov>
Subject: CA waiver writeup

Justin,

Attached is a first cut writeup on the overall authority issues related to the California waiver revocation (i.e., do we have authority to revoke in light of the statute, legislative history, the 1977 amendments, the time that has passed and alleged reliance interests).

We are awaiting a writeup on the prong 2 criteria (whether California needs such standards to meet compelling and extraordinary conditions) from OTAQ, which I expect to have by 5 pm, but I figured it was better to get you this piece now.

Ex. 5 AC/DP

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 9/3/2019 1:56:03 PM
To: Smith, Kristi [Smith.Kristi@epa.gov]
Subject: FW: SAFE CA waiver with EPCA section

Per our discussion. This language is narrow enough that it may be ok but take a look.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Saturday, August 31, 2019 1:33 AM
To: Dickinson, David <Dickinson.David@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good morning David D-

Ex. 5 AC/DP

From: Dickinson, David <Dickinson.David@epa.gov>
Sent: Friday, August 30, 2019 4:43:11 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Winnie –

OTAQ would like to be able to fully read the document/most recent draft you provided yesterday and provide comment to you Tuesday, morning if needed.

Ex. 5 AC/DP

Ex. 5 AC/DP

Thank you, and more soon. I know there are some basic citation issues but don't have all of them handy,

David

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 3:35 PM
To: Simon, Karl <Simon.Karl@epa.gov>; Dickinson, David <Dickinson.David@epa.gov>
Subject: Fw: SAFE CA waiver with EPCA section

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Friday, August 30, 2019 2:57 PM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE CA waiver with EPCA section

Please tell them that we need this as soon as possible. They should send whatever comments they may already have today.

From: Okoye, Winifred <Okoye.Winifred@epa.gov>
Sent: Friday, August 30, 2019 2:44 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: Re: SAFE CA waiver with EPCA section

Good afternoon Justin,

this is a follow up to your question as to whether OAR intends to provide additional text. I did speak with David Dickinson, the staff person, and he indicated that they plan on providing additional text/edits and comments on the draft. He indicated it will most likely be next week.

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 8/27/2019 8:39:15 PM
To: Charmley, William [charmley.william@epa.gov]
Subject: Fwd: SAFE California redline draft
Attachments: SAFE comparewno.docx; ATT00001.htm; 49FedReg7.pdf; ATT00002.htm

Begin forwarded message:

From: "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Date: August 26, 2019 at 1:30:17 PM EDT
To: "Simon, Karl" <Simon.Karl@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>
Subject: Fw: SAFE California redline draft

Attachments this time.
(sorry to clog up your email boxes)

From: Okoye, Winifred
Sent: Thursday, August 22, 2019 11:02 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: SAFE California redline draft

Good evening Justin,

Ex. 5 AC/DP

Ex. 5 AC/DP

Another thing to bear in mind is that we have not received any OTAQ redraft for the second waiver prong subsequent to Friday's interagency. It runs from page 31 through 45 of this draft and it might therefore be a good idea to skip review of that portion for now.

Finally, I have attached the 1984 FRN where the agency first discussed the second waiver prong as calling for whether California needs its own motor vehicle program to meet compelling and extraordinary conditions. The relevant discussion begins at 49 FR 18889. Please, let me know if you would like to see any comments on the SAFE proposal such as comments from the Global Association.

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 9/6/2019 1:52:47 AM
To: Okoye, Winifred; David Orlin (Orlin.David@epa.gov); Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
CC: Dickinson, David [Dickinson.David@epa.gov]; Cook, Leila [cook.leila@epa.gov]
Subject: SAFE Preemption Waiver 8.30.2019 otaq edits
Attachments: SAFE Preemption Waiver 8.30.2019 ks edits.docx

OGC,

Attached are our edits to the combined epca/waiver document. Not that we are still doing some internal review so one or two may change a bit, but I think this is in pretty good shape for you all to review and consider. I also recognize that we are a version or two behind since folks in your shop keep putting out new drafts so these comments may or may not line up exactly with the current working version. Let David or I know if you have any questions. thanks

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 9/5/2019 6:11:58 PM
To: Orlin, David [Orlin.David@epa.gov]
Subject: RE: SAFE draft

We just went through the previous draft so will have to think about how to square up comments to the ever changing versions. Will let you know

From: Orlin, David <Orlin.David@epa.gov>
Sent: Thursday, September 5, 2019 9:48 AM
To: Simon, Karl <Simon.Karl@epa.gov>
Subject: RE: SAFE draft

Yes.

I just put this version on sharepoint—do you want access to suggest edits directly, or have you/David been giving feedback through Winnie?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Simon, Karl <Simon.Karl@epa.gov>
Sent: Wednesday, September 04, 2019 9:58 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: Re: SAFE draft

That would be a large trolling job by NHTSA

On Sep 4, 2019, at 7:15 PM, Orlin, David <Orlin.David@epa.gov> wrote:

PS we asked Justin if someone was working on a name for the rule and he said NHTSA suggested calling it the One National Program rule (he wasn't sure if they really would, but in any case it was something for others to decide)

PPS DOJ suggested some of the rhetoric he added should be toned down and I suggested he was adopting California delenda est as his motto to which he said it was a beautiful state and it was just the waiver program he was rhetorically attacking

David Orlin
(202) 564-1222

On Sep 4, 2019, at 7:05 PM, Orlin, David <Orlin.David@epa.gov> wrote:

Fyi— we had a call with OIRA and DOJ and got some comments which I expect we'll try to put into this version in the next couple of days.

David Orlin

(202) 564-1222

Begin forwarded message:

From: "Schwab, Justin" <Schwab.Justin@epa.gov>
Date: September 4, 2019 at 5:53:53 PM EDT
To: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>, "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Subject: **SAFE draft**

Please find attached. This is structurally revised from the last version I circulated. WO, GS and DO can explain further what the next steps are here.

<SAFE STEP ONE CLEAN DRAFT 09042019 11 AM.docx>

Message

From: Simon, Karl [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4D781D1AD595415DB3A4E768C2D2B3FC-SIMON, KARL]
Sent: 8/16/2019 2:36:16 AM
To: Dunham, Sarah [Dunham.Sarah@epa.gov]
Subject: Fwd: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL
Attachments: image001.png; ATT00001.htm; SAFE FR - Preemption.docx; ATT00002.htm

Per our discussion. I probably won't get at this until Sunday night so will let you my impression Monday

Begin forwarded message:

From: "Orlin, David" <Orlin.David@epa.gov>
Date: August 12, 2019 at 6:24:04 PM EDT
To: "Okoye, Winifred" <Okoye.Winifred@epa.gov>, "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Simon, Karl" <Simon.Karl@epa.gov>, "Cook, Leila" <cook.leila@epa.gov>, "Dickinson, David" <Dickinson.David@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Since DOJ commented during the call last week that it seemed the NHTSA preemption writeup was insufficiently coordinated with EPA's waiver withdrawal discussion, I asked Justin to get us a copy of NHTSA's upload (see attached).

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin <Schwab.Justin@epa.gov>
Sent: Monday, August 12, 2019 6:16 PM
To: Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

From: Morrison, Jonathan (NHTSA) <Jonathan.Morrison@dot.gov>
Sent: Monday, August 12, 2019 6:12 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: DRAFT DELIBERATIVE - PRIVILEGED AND CONFIDENTIAL

Please see attached.

Sincerely,

Message

From: Orlin, David [Orlin.David@epa.gov]
Sent: 9/3/2019 2:14:01 PM
To: Smith, Kristi [Smith.Kristi@epa.gov]; Okoye, Winifred [Okoye.Winifred@epa.gov]
CC: Kataoka, Mark [Kataoka.Mark@epa.gov]
Subject: RE: Waiver paper that talks about SIPs?
Attachments: Waiver piece 08302019.docx

Winnie (or Mark)—do you know what this could be?

I am attaching what I think is the latest version of the final rule revoking the CA waiver but I don't think it talks very much about SIPs.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Smith, Kristi <Smith.Kristi@epa.gov>
Sent: Tuesday, September 03, 2019 9:59 AM
To: Okoye, Winifred <Okoye.Winifred@epa.gov>
Cc: Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>
Subject: Waiver paper that talks about SIPs?

Karl Simon called to ask some SIP-related questions based on an OGC paper he's reading about the waiver. Can you please share the paper with me?

Kristi M. Smith * Assistant General Counsel for the NAAQS Implementation Group * Air & Radiation Law Office * US EPA,
Office of General Counsel * smith.kristi@epa.gov * (202) 564-3068 *

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

Message

From: Srinivasan.Gautam@epa.gov [Srinivasan.Gautam@epa.gov]
Sent: 8/28/2019 11:00:17 AM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Re: hot issues

On your outstanding question, I asked Winnie to put together a chart with everything we took comment on in the proposal and how we addressed it in the draft final. She never really did the latter. I'll send you what she did as it helps with the former.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

On Aug 28, 2019, at 6:55 AM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

I think those are all waiver, rather than broader group, so unless you think we need Mark and Seth, it's fine to not have them there.

Ex. 5 AC/DP

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Wednesday, August 28, 2019 6:52 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: Re: hot issues

Did you want to discuss aspects of SAFE beyond the waiver piece? Just asking for attendance purposes. If you only want to talk waiver, Mark and Seth don't need to attend.

On waiver, my general take after another read is that on the authority to reconsider section, all the arguments are there but the flow/organization/structure could use some work. I think things gets a bit confused in the prong B write up. Seems like we should start there and get consensus on what we're arguing and how we're arguing it.

+++++
 (202) 564-5647 (o)
 (202) 695-6287 (c)

On Aug 27, 2019, at 6:57 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Good on that plan. Please ask fletcher to cancel and ask Pat to replace with safe team meeting.

Sent from my iPhone

On Aug 27, 2019, at 3:43 PM, Srinivasan, Gautam <Srinivasan.Gautam@epa.gov> wrote:

I think that would be a good (probably the best) use of the time.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

From: Schwab, Justin <Schwab.Justin@epa.gov>

Sent: Tuesday, August 27, 2019 3:40 PM

To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Subject: RE: hot issues

I'll suggest that to Matt. Instead I think we should convert hot issues to a SAFE team meeting (i.e., me, you, Winnie, anyone else who may be pitching in).

Thoughts? (I will confirm after I meet with Matt whether we're doing this or not.)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>

Sent: Tuesday, August 27, 2019 3:34 PM

To: Schwab, Justin <Schwab.Justin@epa.gov>

Subject: hot issues

Unless you think there's anything we need to discuss with Matt tomorrow, I think we can tell Fletcher that Matt does not need to attend. But maybe that will be informed by your 5p meeting. Let me know.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

Message

From: Srinivasan.Gautam@epa.gov [Srinivasan.Gautam@epa.gov]
Sent: 8/23/2019 12:42:19 PM
To: Schwab, Justin [Schwab.Justin@epa.gov]
Subject: Fwd: SAFE California redline draft

I have not been able to spend much time at all on this this week. My apologies. It has been busier than usual, probably partly because EZ is gone. I will work on this over the weekend as well.

+++++

(202) 564-5647 (o)

(202) 695-6287 (c)

Begin forwarded message:

From: "Okoye, Winifred" <Okoye.Winifred@epa.gov>
Date: August 22, 2019 at 11:02:29 PM EDT
To: "Schwab, Justin" <Schwab.Justin@epa.gov>
Cc: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Subject: SAFE California redline draft

Good evening Justin,

As requested, the attached is a redline draft that addresses areas that fall within ARLO's responsibility and also some of the issues raised by DOJ during last Friday's interagency meeting. But, please note that this is still a work in progress and does not for instance address EPCA preemption as of yet. It does however, include sections on the agency's final legal construct of 209(b)(1)(i.e., whether EPA has the authority to revoke a prior waiver), 209(b)(1)(B)(along the lines of our discussions earlier today on standards that California needs to meet "compelling and extraordinary conditions") and a section on the third waiver criterion, including final interpretation of 209(b)(1)(C).

Ex. 5 AC/DP

Ex. 5 AC/DP

Finally, I have attached the 1984 FRN where the agency first discussed the second waiver prong as calling for whether California needs its own motor vehicle program to meet compelling and extraordinary conditions. The relevant discussion begins at 49 FR 18889. Please, let me know if you would like to see any comments on the SAFE proposal such as comments from the Global Association.

<SAFE comparewno.docx>

<49FedReg7.pdf>

Message

Sent: 9/5/2019 6:17:24 PM
To: Nickerson, William [Nickerson.William@epa.gov]
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Hi Bill. We're not seeing any comments on the EPA piece. In addition, there is an argument tomorrow morning in the DC Circuit on a related case (the challenge to the April 2018 mid term evaluation). Is it possible to ask whether EPA participation is needed tomorrow? If that's a faux pas, then I think we'd ask for the call to be rescheduled.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB <[Ex. 6 Personal Privacy (PP)]>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
 Office of Information and Regulatory Affairs
 Office of Management and Budget

Ex. 6 Personal Privacy (PP)

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 8/9/2019 3:19:50 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: RE: SAFE call
Attachments: SAFE LEGAL MODULE (WAIVER) 08022019.docx

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Friday, August 09, 2019 11:14 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: RE: SAFE call

Bill- Do you have an electronic copy of what was uploaded with OMB?

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Tuesday, August 6, 2019 1:47 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: SAFE call

Gautam,

I will forward the meeting invitation to the people named below.

I understand that policy level officials from the EOP, DOT, and/or DOJ might also be on the call "for awareness" so would you also please forward to any policy level officials in OGC as appropriate. I will give Brittany the option of attending.

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Tuesday, August 06, 2019 10:56 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: FW: SAFE call

Hello there, Bill. Hope you are doing well. For the Friday call with DOJ re SAFE, please invite Winnie Okoye, David Orlin, Mark Kataoka, and me. Thanks much.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (c)

From: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Sent: Tuesday, August 6, 2019 10:40 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: FW: SAFE call

Gautam, can you provide the list of the OGC participants? Thanks

From: Bolen, Brittany <bolen.brittany@epa.gov>
Sent: Tuesday, August 6, 2019 10:38 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: SAFE call

Matt,
OIRA contacted Bill Nickerson on my team to set up a DOJ call this Friday at 1pm on the document we uploaded last Friday. Who from your team should be included? Justin is out.
Happy to discuss at the 5pm today.
Thanks,
Brittany

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 9/5/2019 5:38:12 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)
Attachments: SAFE Preemption Waiver 8.30.2019_redline comments.docx

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB [Ex. 6 Personal Privacy (PP)]<[REDACTED]@v>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

[Ex. 6 Personal Privacy (PP)]

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 9/16/2019 6:23:55 PM
To: Srinivasan, Gautam [Srinivasan.Gautam@epa.gov]
Attachments: WORKING EPA MASTER 09162016 PM SAFE STEP ONE.docx

Message

From: Srinivasan, Gautam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D69332838210416BA51779B19025F832-GSRINIVA]
Sent: 9/5/2019 8:19:35 PM
To: Nickerson, William [Nickerson.William@epa.gov]
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Ok. We will figure something out.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 2:43 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Apparently there are additional comments from White House counsel, and that is the gist of the call tomorrow.

Ex. 5 Deliberative Process (DP)

From: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Sent: Thursday, September 05, 2019 2:23 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: RE: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Hi Bill. We're not seeing any comments on the EPA piece. In addition, there is an argument tomorrow morning in the DC Circuit on a related case (the challenge to the April 2018 mid term evaluation). Is it possible to ask whether EPA participation is needed tomorrow? If that's a faux pas, then I think we'd ask for the call to be rescheduled.

+++++

(202) 564-5647 (o)

Ex. 6 Personal Privacy (PP) (C)

From: Nickerson, William <Nickerson.William@epa.gov>
Sent: Thursday, September 5, 2019 1:38 PM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>
Subject: FW: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Just got this; forwarding to you in the hopes you can send it on to the right people. Unclear if this is the basis for the call tomorrow

From: Oreska, Matthew P. EOP/OMB <Ex. 6 Personal Privacy (PP)>
Sent: Thursday, September 05, 2019 12:59 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: E.O. 12866 Review - Redline passback edits on the SAFE rule (2060-AU09 / 2127-AL76)

Good afternoon,

Please find attached redline edits on the draft SAFE waiver rule.

Thank you,

Matthew

Matthew Oreska, Ph.D.
Office of Information and Regulatory Affairs
Office of Management and Budget

Ex. 6 Personal Privacy (PP)